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Chief Clerk of the House

FILED JAN 14 2005

By: Kevin Bailey

H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in  
disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended  
by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR  
ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions of  
this chapter, Chapter 16, or Chapter 17, a county with a population  
of three million or more or a county with a population of 350,000 or  
more that is adjacent to a county with a population of three million  
or more is eligible for any financial assistance available under  
this chapter, Chapter 16, or Chapter 17 for providing water and  
sewer services, connections to water and sewer services, and any  
other assistance related to water and sewer services in  
economically distressed areas of the county.

SECTION 2. This Act takes effect immediately if it receives  
a vote of two-thirds of all the members elected to each house, as  
provided by Section 39, Article III, Texas Constitution. If this  
Act does not receive the vote necessary for immediate effect, this  
Act takes effect September 1, 2005.

# HOUSE COMMITTEE REPORT

1<sup>st</sup> Printing

05 APR -1 AM 12: 31  
HOUSE OF REPRESENTATIVES

By: Bailey, Howard, Olivo

H.B. No. 467

Substitute the following for H.B. No. 467:

By: Howard

C.S.H.B. No. 467

## A BILL TO BE ENTITLED

### AN ACT

relating to the financing of water and sewer programs in  
disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended  
by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR  
ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions  
of this chapter, Chapter 16, or Chapter 17, a county with a  
population of three million or more or a county with a population of  
350,000 or more that is adjacent to a county with a population of  
three million or more is eligible for any financial assistance  
available under this chapter, Chapter 16, or Chapter 17 for  
providing water and sewer services, connections to water and sewer  
services, and any other assistance related to water and sewer  
services in economically distressed areas of the county.

SECTION 2. Sections 16.343(f) and (g), Water Code, are  
amended to read as follows:

(f) Notwithstanding any other law to the contrary, the only  
kind of county that may adopt the model rules is:

(1) an affected county; or

(2) a county described by Section 15.009.

(g) Before an application for funds under Section 15.407 or  
Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be

1 considered by the board, a political subdivision must adopt the  
2 model rules pursuant to this section. A county described by Section  
3 15.009 may limit the applicability of the model rules to the portion  
4 of the county for which the application is made. If the applicant  
5 is a district, nonprofit water supply corporation, or colonia, the  
6 applicant must be located in a city or county that has adopted such  
7 rules. Applicants for funds under Section 15.407 or Subchapter P,  
8 Chapter 15, or Subchapter K, Chapter 17, may not receive funds under  
9 those provisions unless the applicable political subdivision  
10 adopts and enforces the model rules.

11 SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

3.29.05  
(date)

Sir:  
We, your COMMITTEE ON ENVIRONMENTAL REGULATION  
to whom was referred HB 467 have had the same under consideration and beg to report  
back with the recommendation that it

- ( ) do pass, without amendment.
- ( ) do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes ( ) no A fiscal note was requested.
- ( ) yes (X) no A criminal justice policy impact statement was requested.
- ( ) yes (X) no An equalized educational funding impact statement was requested.
- ( ) yes (X) no An actuarial analysis was requested.
- ( ) yes (X) no A water development policy impact statement was requested.
- ( ) yes (X) no A tax equity note was requested.
- ( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

|                    | AYE | NAY | PNV | ABSENT |
|--------------------|-----|-----|-----|--------|
| Bonnen, Chair      | X   |     |     |        |
| Howard, Vice-chair | X   |     |     |        |
| Driver             | X   |     |     |        |
| Homer              | X   |     |     |        |
| King, T.           | X   |     |     |        |
| Kuempel            | X   |     |     |        |
| Smith, W.          | X   |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |
|                    |     |     |     |        |

Total  
7 aye  
0 nay  
0 present, not voting  
0 absent

Dennis Bonnen  
CHAIR



## **BILL ANALYSIS**

C.S.H.B. 467  
By: Bailey  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Water Assistance Program began in 1989 to bring water and wastewater services to economically distressed communities. Currently Harris County and adjacent counties have economically distressed areas that are lacking in adequate water and sewer services placing the public health at risk. Wells in these areas are at risk of contamination from nearby septic systems.

C.S.H.B. 467 provides that economically distressed areas in Harris and Fort Bend counties are eligible for the Texas Water Assistance Program.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 467 amends the Water Code to provide that certain counties are eligible for financial assistance under the Texas Water Assistance Program for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county. It specifically makes eligible a county with a population of three million or more, or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more.

The bill allows these counties to adopt model political subdivision rules. The bill allows these counties to limit the applicability of the model political subdivision rules to the portion of the county for which the county has made an application for funds for facility engineering in economically distressed areas; assistance to economically distressed areas for water, supply and sewer service projects; and the colonia self-help program.

### **EFFECTIVE DATE**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, if not the Act takes effect September 1, 2005

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute allows the counties specified in the original to adopt model political subdivision rules. The substitute allows these counties to limit the applicability of the model political subdivision rules to the portion of the county for which the county has made an application for funds for facility engineering in economically distressed areas; assistance to economically distressed areas for water, supply and sewer service projects; and the colonia self-help program.

## SUMMARY OF COMMITTEE ACTION

HB 467

March 8, 2005            8:00AM

Considered in public hearing  
Testimony taken in committee (See attached witness list.)  
Left pending in committee

March 29, 2005            2:00PM    or upon final adjourn./recess

Considered in public hearing  
Committee substitute considered in committee  
Reported favorably as substituted

WITNESS LIST

HB 467  
HOUSE COMMITTEE REPORT  
Environmental Regulation Committee

March 8, 2005 - 8:00AM

For: Bailey, Clyde (Aldine Water and Sewer and Aldine  
Improvement District)  
Bean, Scott (Aldine Water and Sewer Authority)  
Moreland, Robert (Self)

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 31, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** **HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties. ), **Committee Report 1st House, Substituted**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 4, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

ADOPTED as amended

APR 10 2005

*Robert M. ...*  
 Chief Clerk  
 House of Representatives

By: Kevin BaileyH.B. No. 467Substitute the following for H.B. No. 467:By: HowardC.S. H.B. No. 467

## A BILL TO BE ENTITLED

## AN ACT

relating to the financing of water and sewer programs in  
 disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended  
 by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR  
ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions  
of this chapter, Chapter 16, or Chapter 17, a county with a  
population of three million or more or a county with a population of  
350,000 or more that is adjacent to a county with a population of  
three million or more is eligible for any financial assistance  
available under this chapter, Chapter 16, or Chapter 17 for  
providing water and sewer services, connections to water and sewer  
services, and any other assistance related to water and sewer  
services in economically distressed areas of the county.

SECTION 2. Sections 16.343(f) and (g), Water Code, are  
 amended to read as follows:

(f) Notwithstanding any other law to the contrary, the only  
 kind of county that may adopt the model rules is:

(1) an affected county; or

(2) a county described by Section 15.009.

(g) Before an application for funds under Section 15.407 or  
 Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be

1 considered by the board, a political subdivision must adopt the  
2 model rules pursuant to this section. A county described by Section  
3 15.009 may limit the applicability of the model rules to the portion  
4 of the county for which the application is made. If the applicant  
5 is a district, nonprofit water supply corporation, or colonia, the  
6 applicant must be located in a city or county that has adopted such  
7 rules. Applicants for funds under Section 15.407 or Subchapter P,  
8 Chapter 15, or Subchapter K, Chapter 17, may not receive funds under  
9 those provisions unless the applicable political subdivision  
10 adopts and enforces the model rules.

11 SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2005.

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB467-Second Reading

| <u>AMENDMENT#</u> | <u>AUTHOR</u> | <u>DESCRIPTION</u> | <u>ACTION</u> |
|-------------------|---------------|--------------------|---------------|
| 1                 | Dutton        | Amendment          | Adopted       |





ADOPTED

ENGROSSED RIDER NO. 2

APR 19 2005

Robert H. Hanes  
Chief Clerk  
House of Representatives

BY:

FLOOR AMENDMENT NO. 1

Amend C.S.H.B. No. 467 as follows:

(1) On page 2, between lines 10 and 11, insert the following appropriately numbered section:

SECTION \_\_\_\_ Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.9345 to read as follows:

Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN ECONOMICALLY DISTRESSED AREAS. (a) On request of an owner or occupant of land located in a municipality on which a new residential structure is being constructed and that is adjacent to a street, the municipality shall provide sewer service connections on both sides of the street.

(b) The cost of providing sewer service connections under Subsection (a) shall be borne by the municipality.

(2) Renumber subsequent sections of the bill accordingly.

**ADOPTED** *as amended*

APR 19 2005

*Rel...*  
Clerk  
House of Representatives

**2ND READING  
ENGROSSMENT**

By: *Kevin Bailey*

*H.B. No. 467*

Substitute the following for H.B. No. 467:

By: Howard

C.S. H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions of this chapter, Chapter 16, or Chapter 17, a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17 for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Sections 16.343(f) and (g), Water Code, are amended to read as follows:

(f) Notwithstanding any other law to the contrary, the only kind of county that may adopt the model rules is:

(1) an affected county; or

(2) a county described by Section 15.009.

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be

1 considered by the board, a political subdivision must adopt the  
2 model rules pursuant to this section. A county described by Section  
3 15.009 may limit the applicability of the model rules to the portion  
4 of the county for which the application is made. If the applicant  
5 is a district, nonprofit water supply corporation, or colonia, the  
6 applicant must be located in a city or county that has adopted such  
7 rules. Applicants for funds under Section 15.407 or Subchapter P,  
8 Chapter 15, or Subchapter K, Chapter 17, may not receive funds under  
9 those provisions unless the applicable political subdivision  
10 adopts and enforces the model rules.

11 SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2005.



ADOPTED

ENGROSSED RIDER NO. 2

APR 19 2005

Robert Whaley  
Chief Clerk  
House of Representatives

BY:

FLOOR AMENDMENT NO. 1

Amend C.S.H.B. No. 467 as follows:

(1) On page 2, between lines 10 and 11, insert the following appropriately numbered section:

SECTION \_\_\_\_ Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.9345 to read as follows:

Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN ECONOMICALLY DISTRESSED AREAS. (a) On request of an owner or occupant of land located in a municipality on which a new residential structure is being constructed and that is adjacent to a street, the municipality shall provide sewer service connections on both sides of the street.

(b) The cost of providing sewer service connections under Subsection (a) shall be borne by the municipality.

(2) Renumber subsequent sections of the bill accordingly.

# HOUSE ENGROSSMENT

By: Bailey, Howard, Olivo

H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs and the provision of sewer connections in disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions of this chapter, Chapter 16, or Chapter 17, a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17 for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Sections 16.343(f) and (g), Water Code, are amended to read as follows:

(f) Notwithstanding any other law to the contrary, the only kind of county that may adopt the model rules is:

(1) an affected county; or

(2) a county described by Section 15.009.

(g) Before an application for funds under Section 15.407 or

1 Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be  
2 considered by the board, a political subdivision must adopt the  
3 model rules pursuant to this section. A county described by Section  
4 15.009 may limit the applicability of the model rules to the portion  
5 of the county for which the application is made. If the applicant  
6 is a district, nonprofit water supply corporation, or colonia, the  
7 applicant must be located in a city or county that has adopted such  
8 rules. Applicants for funds under Section 15.407 or Subchapter P,  
9 Chapter 15, or Subchapter K, Chapter 17, may not receive funds under  
10 those provisions unless the applicable political subdivision  
11 adopts and enforces the model rules.

12 SECTION 3. Subchapter K, Chapter 17, Water Code, is amended  
13 by adding Section 17.9345 to read as follows:

14 Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN  
15 ECONOMICALLY DISTRESSED AREAS. (a) On request of an owner or  
16 occupant of land located in a municipality on which a new  
17 residential structure is being constructed and that is adjacent to  
18 a street, the municipality shall provide sewer service connections  
19 on both sides of the street.

20 (b) The cost of providing sewer service connections under  
21 Subsection (a) shall be borne by the municipality.

22 SECTION 4. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2005.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 31, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** **HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 4, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa



1-1 By: Bailey, et al. (Senate Sponsor - Gallegos) H.B. No. 467  
1-2 (In the Senate - Received from the House April 21, 2005;  
1-3 April 22, 2005, read first time and referred to Committee on  
1-4 Natural Resources; May 17, 2005, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 10,  
1-6 Nays 0; May 17, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 467

By: Staples

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the financing of water and sewer programs in  
1-11 disadvantaged areas.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 17, Water Code, is amended by adding  
1-14 Subchapter K-1 to read as follows:

1-15 SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED  
1-16 AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

1-17 Sec. 17.941. DEFINITIONS. In this subchapter:

1-18 (1) "Economically distressed area" means an area in  
1-19 this state in which:

1-20 (A) water supply or sewer services are inadequate  
1-21 to meet minimal needs of residential users as defined by board rule;

1-22 (B) financial resources are inadequate to  
1-23 provide water supply and sewer services that will satisfy those  
1-24 needs; and

1-25 (C) an established residential subdivision was  
1-26 located on June 1, 2005, as determined by the board.

1-27 (2) "Financial assistance" means the funds provided by  
1-28 the board to political subdivisions for water supply or sewer  
1-29 services under this subchapter.

1-30 (3) "Political subdivision" means a county, a  
1-31 municipality, a nonprofit water supply corporation created and  
1-32 operating under Chapter 67, or a district or authority created  
1-33 under Section 52, Article III, or Section 59, Article XVI, Texas  
1-34 Constitution.

1-35 (4) "Sewer services" and "sewer facilities" mean  
1-36 treatment works or individual, on-site, or cluster treatment  
1-37 systems such as septic tanks and include drainage facilities and  
1-38 other improvements for proper functioning of the sewer services and  
1-39 other facilities.

1-40 Sec. 17.942. FINANCIAL ASSISTANCE. The economically  
1-41 distressed areas program account may be used by the board to provide  
1-42 financial assistance to political subdivisions for the  
1-43 construction, acquisition, or improvement of water supply and sewer  
1-44 services, including providing money from the account for the  
1-45 state's participation in federal programs that provide assistance  
1-46 to political subdivisions. Money from the proceeds of bonds issued  
1-47 under the authority of Section 49-d-7(b) or 49-d-8, Article III,  
1-48 Texas Constitution, may not be used to provide financial assistance  
1-49 under this subchapter.

1-50 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A  
1-51 political subdivision may apply to the board for financial  
1-52 assistance under this subchapter by submitting an application  
1-53 together with a plan for providing water supply or sewer services to  
1-54 an economically distressed area.

1-55 (b) The application and plan must include:

1-56 (1) the name of the political subdivision and its  
1-57 principal officers;

1-58 (2) a citation of the law under which the political  
1-59 subdivision was created and operates;

1-60 (3) a description of the existing water supply and  
1-61 sewer facilities located in the area to be served by the proposed  
1-62 project and, along with the description, a statement prepared and  
1-63 certified by an engineer registered to practice in this state that

the facilities do not meet minimum state standards;

(4) information identifying the median household income for the area to be served by the proposed project;

(5) a project plan prepared and certified by an engineer registered to practice in this state that:

(A) describes the proposed planning, design, and construction activities necessary for providing water supply and sewer services that meet minimum state standards; and

(B) identifies the households to which the services will be provided;

(6) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines; and

(7) the total amount of assistance requested from the economically distressed areas program account.

(c) A program of water conservation for the more effective use of water is required for the approval of an application for financial assistance under this section in the same manner as such a program is required for the approval of an application for financial assistance under Section 17.125.

(d) Before considering the application, the board may require the applicant to:

(1) participate with the board in reviewing the applicant's managerial, financial, or technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission of the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant's current operations and, if the comptroller is available to perform the review, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.

Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

(a) In reviewing an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply or sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) the availability of revenue or alternative financial assistance for the area served by the project, from all sources, for the payment of the cost of the proposed project;

(3) the financing of the proposed water supply or sewer project, including consideration of:

(A) the budget and repayment schedule submitted under Section 17.943(b)(6);

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board; and

(4) the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the project by using money from the economically distressed areas program account or any other available financial assistance.

(b) At the time an application for financial assistance is considered, the board must also find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After considering the matters described by Section 17.944, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board may not release money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water that the water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply project will provide.

(b) The board may release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for treatment works, the board may not deliver money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission, unless such a permit is not required by the commission.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The board may provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas program account to purchase political subdivision bonds.

(b) The board may make financial assistance available to political subdivisions in any other manner that it considers feasible, including:

(1) contracts or agreements with a political subdivision for acceptance of financial assistance that establish any repayment based on the political subdivision's ability to repay the assistance and that establish requirements for acceptance of the assistance; or

(2) contracts or agreements for providing financial assistance in any federal or federally assisted project or program.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board may use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by board rules and in the agreement between the board and the political subdivision, taking into consideration the information provided under Section 17.943.

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services issues a finding that a nuisance dangerous to the public health and safety exists resulting

4-1 from water supply and sanitation problems in the area to be served  
 4-2 by the proposed project. The board and the applicant shall provide  
 4-3 to the department information necessary to make a determination,  
 4-4 and the board and the department may enter into memoranda of  
 4-5 understanding necessary to carry out this subsection.

4-6 (c) The total amount of financial assistance provided by the  
 4-7 board to political subdivisions under this subchapter from  
 4-8 state-issued bonds for which repayment is not required may not  
 4-9 exceed at any time 90 percent of the total principal amount of  
 4-10 issued and unissued bonds authorized for purposes of this  
 4-11 subchapter.

4-12 (d) In determining the amount and form of financial  
 4-13 assistance and the amount and form of repayment, if any, the board  
 4-14 shall consider:

4-15 (1) rates, fees, and charges that the average customer  
 4-16 to be served by the project will be able to pay based on a comparison  
 4-17 of what other families of similar income who are similarly situated  
 4-18 pay for comparable services;

4-19 (2) sources of funding available to the political  
 4-20 subdivision from federal and private money and from other state  
 4-21 money;

4-22 (3) any local money of the political subdivision to be  
 4-23 served by the project if the economically distressed area to be  
 4-24 served by the board's financial assistance is within the boundary  
 4-25 of the political subdivision; and

4-26 (4) the just, fair, and reasonable charges for water  
 4-27 and wastewater service as provided by this code.

4-28 (e) In making its determination under Subsection (d)(1),  
 4-29 the board may consider any study, survey, data, criteria, or  
 4-30 standard developed or prepared by any federal, state, or local  
 4-31 agency, private foundation, banking or financial institution, or  
 4-32 other reliable source of statistical or financial data or  
 4-33 information.

4-34 (f) The board may provide financial assistance money under  
 4-35 this subchapter for treatment works only if the board determines  
 4-36 that it is not feasible in the area covered by the application to  
 4-37 use septic tanks as the method for providing sewer services under  
 4-38 the applicant's plan.

4-39 SECTION 2. Subsection (c), Section 17.958, Water Code, is  
 4-40 amended to read as follows:

4-41 (c) Money on deposit in the economically distressed areas  
 4-42 program account may be used by the board for purposes provided by  
 4-43 Subchapter K or K-1 in the manner that the board determines  
 4-44 necessary for the administration of the fund.

4-45 SECTION 3. Subsection (i), Section 15.407, and Subsection  
 4-46 (b), Section 15.974, Water Code, are repealed.

4-47 SECTION 4. This Act takes effect immediately if it receives  
 4-48 a vote of two-thirds of all the members elected to each house, as  
 4-49 provided by Section 39, Article III, Texas Constitution. If this  
 4-50 Act does not receive the vote necessary for immediate effect, this  
 4-51 Act takes effect September 1, 2005.

4-52 \* \* \* \* \*

FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 4607  
By Bailey Gallegos  
(Author/Senate Sponsor)  
5/17/05  
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,  
have on 5/12/05, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed  
☐ the caption remained the same as original measure  
☒ the caption changed with adoption of the substitute  
☐ do pass as substituted, and be ordered not printed  
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

|                             | YEA | NAY | ABSENT | PNV |
|-----------------------------|-----|-----|--------|-----|
| Senator Armbrister, Chair   | X   |     |        |     |
| Senator Jackson, Vice-Chair | X   |     |        |     |
| Senator Barrientos          | X   |     |        |     |
| Senator Duncan              | X   |     |        |     |
| Senator Estes               | X   |     |        |     |
| Senator Fraser              | X   |     |        |     |
| Senator Hinojosa            |     |     | X      |     |
| Senator Lindsay             | X   |     |        |     |
| Senator Madla               | X   |     |        |     |
| Senator Seliger             | X   |     |        |     |
| Senator Staples             | X   |     |        |     |
| TOTAL VOTES                 | 10  | 0   | 1      | 0   |

COMMITTEE ACTION

☒ S269 Considered in public hearing  
☒ S270 Testimony taken

Vicky C. Mullen  
COMMITTEE CLERK

Xen Arbur  
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
Retain one copy of this form for Committee files

## **BILL ANALYSIS**

Senate Research Center

H.B. 467  
By: Bailey (Gallegos)  
Natural Resources  
5/7/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, Harris County and adjacent counties have economically distressed areas that are severely lacking in adequate water and sewer services. Most of these residential users live daily under substandard conditions dependant on water wells which are contaminated. Septic systems are leaching into the water table, adding further contamination of the drinking water.

H.B. 467 provides for these areas to be eligible for grant or bond assistance under Chapters 16 (Provisions Generally Applicable to Water Development) and 17 (Public Funding), Water Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 15, Water Code, by adding Section 15.009, as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Provides that, notwithstanding other provisions of this chapter, Chapter 16, or Chapter 17, a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17 for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Amends Sections 16.343(f) and (g), Water Code, as follows:

(f) Authorizes, notwithstanding any other law to the contrary, a county described in Section 15.009 to adopt the model rules to assure that minimum standards for safe and sanitary water supply and sewer services in residential areas of political subdivisions.

(g) Authorizes a county described by Section 15.009 to limit the applicability of the model rules to the portion of the county for which the application is made.

SECTION 3. Amends Subchapter K, Chapter 17, Water Code, by adding Section 17.9345, as follows:

Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN ECONOMICALLY DISTRESSED AREAS. (a) Requires a municipality, on request of an owner or occupant of land located in a municipality on which a new residential structure is being constructed and that is adjacent to a street, to provide sewer service connections on both sides of the street.

(b) Requires the cost of providing sewer service connections under Subsection (a) to be borne by the municipality.

SECTION 4. Effective date: upon passage or September 1, 2005.

## **BILL ANALYSIS**

Senate Research Center  
79R16936 RMB-F

C.S.H.B. 467  
By: Bailey (Gallegos)  
Natural Resources  
5/18/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, Harris County and adjacent counties have economically distressed areas that are severely lacking in adequate water and sewer services. Most of these residential users live daily under substandard conditions dependant on water wells which are contaminated. Septic systems are leaching into the water table, adding further contamination of the drinking water.

C.S.H.B. 467 provides for these areas to be eligible for grant or bond assistance under Chapters 16 (Provisions Generally Applicable to Water Development) and 17 (Public Funding), Water Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 17, Water Code, by adding Subchapter K-1, as follows:

#### **SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS**

Sec. 17.941. DEFINITIONS. Defines "economically distressed area," "financial assistance," "political subdivision," and "sewer services" and "sewer facilities."

Sec. 17.942. FINANCIAL ASSISTANCE. Authorizes the economically distressed areas program account (account) to be used by the Texas Water Development Board (board) to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions. Prohibits money from the proceeds of bonds issued under the authority of Section 49-d-7(b) or 49-d-8, Article III, Texas Constitution, from being used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) Authorizes a political subdivision to apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) Requires the application and plan to include certain information.

(c) Provides that a program of water conservation for the more effective use of water is required for the approval of an application for financial assistance under this section in the same manner as such a program is required for the approval of an application for financial assistance under Section 17.125.

(d) Authorizes the board, before considering the application, to require the applicant to take certain actions relating to the application process.

Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION. (a) Requires the board to take certain considerations into account in reviewing an application for financial assistance.

(b) Requires the board, at the time an application for financial assistance is considered, to also find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. Requires the board by resolution, after considering the matters described by Section 17.944, to take certain actions relating to the approval or denial of a plan and application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) Prohibits the board from releasing money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a certain written finding.

(b) Authorizes the board to release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) Prohibits the board, if an applicant includes a proposal for treatment works, from delivering money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the Texas Commission on Environmental Quality (TCEQ), unless such a permit is not required by TCEQ.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) Authorizes the board to provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas program account to purchase political subdivision bonds.

(b) Authorizes the board to make financial assistance available to political subdivisions in any other manner that it considers feasible, including certain contracts or agreements.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) Authorizes the board to use money in the account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by board rules and in agreement between the board and the political subdivision, taking into consideration the information provided under Section 17.943.

(b) Prohibits the board, in providing financial assistance to an applicant under this subchapter, from providing to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services (department) issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. Requires the board and the application to provide to the department information necessary to make a determination, and authorizes the board and the department to enter into memoranda of understanding necessary to carry out this subsection.

(c) Prohibits the total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required from exceeding at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.



(d) Requires the board to take certain considerations into account in determining the amount and form of financial assistance and the amount and form of repayment.

(e) Authorizes the board, in making its determination under Subsection (d)(1), to consider any study, survey, data, criteria, or standard developed or prepared by an federal, state, or local agency, privacy foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) Authorizes the board to provide financial assistance money under this subchapter for treatment works only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

SECTION 2. Amends Subsection (c), Section 17.958, Water Code, to make a conforming change.

SECTION 3. Repealer: Sections 15.407(i) (relating to a political subdivision's eligibility for financial assistance) and 15.974(b) (relating to regulations of amounts of financial assistance), Water Code.

SECTION 4. Effective date: upon passage or September 1, 2005.

WITNESS LIST

HB 467

SENATE COMMITTEE REPORT

Natural Resources

May 10, 2005 - 1:30PM

FOR:        Bean, Scott   (ALDINE), HOUSTON, TX  
              Reed, Cyrus   (Texas Center for Policy Studies), Austin, TX

Registering, but not testifying:

For:        Sisk, Cathy   (Harris County), Houston, TX

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 19, 2005**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas.), **Committee Report 2nd House, Substituted**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would create the Economically Disadvantaged Areas program, making financial assistance from the program to areas with not more than 75 percent of the median state household income without respect to county. This would effectively expand the number of political subdivisions eligible for Economically Distressed Areas Program funding. Although the demand for Water Development Board funding would increase substantially, costs would depend on the funding source for the financial assistance and the amount of funds made available.

**Local Government Impact**

Impact to local governments that meet the definition of economically distressed area would benefit from financial assistance for water supply or sewer services. The positive fiscal impact would vary by local government entity and be dependent upon availability of funds.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, TL, DLBa

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 10, 2005

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB467** by Bailey (Relating to the financing of water and sewer programs and the provision of sewer connections in disadvantaged areas in certain counties.), **As Engrossed**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would amend Chapter 16, Water Code, to add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would amend Subchapter K, Chapter 17, Water Code, to require a municipality in an economically distressed area, upon request of an owner or occupant of land where a new residential structure is being constructed and that is adjacent to a street, to provide sewer service connections on both sides of the street

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

### Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

The cost of providing sewer service connections on both sides of the street would vary by affected county.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 31, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** **HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties. ), **Committee Report 1st House, Substituted**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 4, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** HB467 by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

ADOPTED

as amended  
MAY 25 2005

30-1  
Secretary of the Senate

By: \_\_\_\_\_

H.B. No. 467

Substitute the following for H.B. No. \_\_\_\_\_:

By: Staples

C.S. H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

~~SECTION 1. Chapter 17, Water Code, is amended by adding~~

~~Subchapter K-1 to read as follows:~~

~~SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED~~

~~AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS~~

~~Sec. 17.941. DEFINITIONS. In this subchapter:~~

~~(1) "Economically distressed area" means an area in this state in which:~~

~~(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;~~

~~(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and~~

~~(C) an established residential subdivision was located on June 1, 2005, as determined by the board.~~

~~(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.~~

~~(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created~~

1 Under Section 52, Article III, or Section 59, Article XVI, Texas  
2 Constitution.

3 (4) "Sewer services" and "sewer facilities" mean  
4 treatment works or individual, on-site, or cluster treatment  
5 systems such as septic tanks and include drainage facilities and  
6 other improvements for proper functioning of the sewer services and  
7 other facilities.

8 Sec. 17.942. FINANCIAL ASSISTANCE. The economically  
9 distressed areas program account may be used by the board to provide  
10 financial assistance to political subdivisions for the  
11 construction, acquisition, or improvement of water supply and sewer  
12 services, including providing money from the account for the  
13 state's participation in federal programs that provide assistance  
14 to political subdivisions. Money from the proceeds of bonds issued  
15 under the authority of Section 49-d-7(b) or 49-d-8, Article III,  
16 Texas Constitution, may not be used to provide financial assistance  
17 under this subchapter.

18 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A  
19 political subdivision may apply to the board for financial  
20 assistance under this subchapter by submitting an application  
21 together with a plan for providing water supply or sewer services to  
22 an economically distressed area.

23 (b) The application and plan must include:

24 (1) the name of the political subdivision and its  
25 principal officers;

26 (2) a citation of the law under which the political  
27 subdivision was created and operates;



1           (3) a description of the existing water supply and  
2 sewer facilities located in the area to be served by the proposed  
3 project and, along with the description, a statement prepared and  
4 certified by an engineer registered to practice in this state that  
5 the facilities do not meet minimum state standards;

6           (4) information identifying the median household  
7 income for the area to be served by the proposed project;

8           (5) a project plan prepared and certified by an  
9 engineer registered to practice in this state that:

10               (A) describes the proposed planning, design, and  
11 construction activities necessary for providing water supply and  
12 sewer services that meet minimum state standards; and

13               (B) identifies the households to which the  
14 services will be provided;

15           (6) a budget that estimates the total cost of  
16 providing water supply and sewer services to the economically  
17 distressed area and a proposed schedule and method for repayment of  
18 financial assistance consistent with board rules and guidelines;  
19 and

20           (7) the total amount of assistance requested from the  
21 economically distressed areas program account.

22           (c) A program of water conservation for the more effective  
23 use of water is required for the approval of an application for  
24 financial assistance under this section in the same manner as such a  
25 program is required for the approval of an application for  
26 financial assistance under Section 17.125.

27           (d) Before considering the application, the board may

1 require the applicant to:

2 (1) participate with the board in reviewing the  
3 applicant's managerial, financial, or technical capabilities to  
4 operate the system for which assistance is being requested;

5 (2) provide a written determination by the commission  
6 of the applicant's managerial, financial, and technical  
7 capabilities to operate the system for which assistance is being  
8 requested;

9 (3) request that the comptroller perform a financial  
10 management review of the applicant's current operations and, if the  
11 comptroller is available to perform the review, provide the board  
12 with the results of the review; or

13 (4) provide any other information required by the  
14 board or the executive administrator.

15 Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

16 (a) In reviewing an application for financial assistance, the  
17 board shall consider:

18 (1) the need of the economically distressed area to be  
19 served by the water supply or sewer services in relation to the need  
20 of other political subdivisions requiring financial assistance  
21 under this subchapter and the relative costs and benefits of all  
22 applications;

23 (2) the availability of revenue or alternative  
24 financial assistance for the area served by the project, from all  
25 sources, for the payment of the cost of the proposed project;

26 (3) the financing of the proposed water supply or  
27 sewer project, including consideration of:

1                   (A) the budget and repayment schedule submitted  
2 under Section 17.943(b)(6);

3                   (B) other items included in the application  
4 relating to financing; and

5                   (C) other financial information and data  
6 available to the board; and

7                   (4) the feasibility of achieving cost savings by  
8 providing a regional facility for water supply or wastewater  
9 service and the feasibility of financing the project by using money  
10 from the economically distressed areas program account or any other  
11 available financial assistance.

12           (b) At the time an application for financial assistance is  
13 considered, the board must also find that the area to be served by a  
14 proposed project has a median household income of not more than 75  
15 percent of the median state household income for the most recent  
16 year for which statistics are available.

17           Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After  
18 considering the matters described by Section 17.944, the board by  
19 resolution shall:

20                   (1) approve the plan and application as submitted;

21                   (2) approve the plan and application subject to the  
22 requirements identified by the board or commission for the  
23 applicant to obtain the managerial, financial, and technical  
24 capabilities to operate the system and any other requirements,  
25 including training under Subchapter M, the board considers  
26 appropriate;

27                   (3) deny the application and identify the requirements

1 or remedial steps the applicant must complete before the applicant  
2 may be reconsidered for financial assistance;

3 (4) if the board finds that the applicant will be  
4 unable to obtain the managerial, financial, or technical  
5 capabilities to build and operate a system, deny the application  
6 and issue a determination that a service provider other than the  
7 applicant is necessary or appropriate to undertake the proposed  
8 project; or

9 (5) deny the application.

10 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board  
11 may not release money for the construction of that portion of a  
12 project that proposes surface water or groundwater development  
13 until the executive administrator makes a written finding:

14 (1) that an applicant proposing surface water  
15 development has the necessary water right authorizing it to  
16 appropriate and use the water that the water supply project will  
17 provide; or

18 (2) that an applicant proposing groundwater  
19 development has the right to use water that the water supply project  
20 will provide.

21 (b) The board may release money for the costs of planning,  
22 engineering, architectural, legal, title, fiscal, or economic  
23 investigation, studies, surveys, or designs before making the  
24 finding required under Subsection (a) if the executive  
25 administrator determines that a reasonable expectation exists that  
26 the finding will be made before the release of funds for  
27 construction.

1        (c) If an applicant includes a proposal for treatment works,  
2 the board may not deliver money for the treatment works until the  
3 applicant has received a permit for construction and operation of  
4 the treatment works and approval of the plans and specifications  
5 from the commission, unless such a permit is not required by the  
6 commission.

7        Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The  
8 board may provide financial assistance to political subdivisions  
9 under this subchapter by using money in the economically distressed  
10 areas program account to purchase political subdivision bonds.

11        (b) The board may make financial assistance available to  
12 political subdivisions in any other manner that it considers  
13 feasible, including:

14                (1) contracts or agreements with a political  
15 subdivision for acceptance of financial assistance that establish  
16 any repayment based on the political subdivision's ability to repay  
17 the assistance and that establish requirements for acceptance of  
18 the assistance; or

19                (2) contracts or agreements for providing financial  
20 assistance in any federal or federally assisted project or program.

21        Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board  
22 may use money in the economically distressed areas program account  
23 to provide financial assistance under this subchapter to a  
24 political subdivision to be repaid in the form, manner, and time  
25 provided by board rules and in the agreement between the board and  
26 the political subdivision, taking into consideration the  
27 information provided under Section 17.943.

1        (b) In providing financial assistance to an applicant under  
2 this subchapter, the board may not provide to the applicant  
3 financial assistance for which repayment is not required in an  
4 amount that exceeds 50 percent of the total amount of the financial  
5 assistance plus interest on any amount that must be repaid, unless  
6 the Department of State Health Services issues a finding that a  
7 nuisance dangerous to the public health and safety exists resulting  
8 from water supply and sanitation problems in the area to be served  
9 by the proposed project. The board and the applicant shall provide  
10 to the department information necessary to make a determination,  
11 and the board and the department may enter into memoranda of  
12 understanding necessary to carry out this subsection.

13        (c) The total amount of financial assistance provided by the  
14 board to political subdivisions under this subchapter from  
15 state-issued bonds for which repayment is not required may not  
16 exceed at any time 90 percent of the total principal amount of  
17 issued and unissued bonds authorized for purposes of this  
18 subchapter.

19        (d) In determining the amount and form of financial  
20 assistance and the amount and form of repayment, if any, the board  
21 shall consider:

22                (1) rates, fees, and charges that the average customer  
23 to be served by the project will be able to pay based on a comparison  
24 of what other families of similar income who are similarly situated  
25 pay for comparable services;

26                (2) sources of funding available to the political  
27 subdivision from federal and private money and from other state

1 money;

2 (3) any local money of the political subdivision to be  
3 served by the project if the economically distressed area to be  
4 served by the board's financial assistance is within the boundary  
5 of the political subdivision; and

6 (4) the just, fair, and reasonable charges for water  
7 and wastewater service as provided by this code.

8 (e) In making its determination under Subsection (d)(1),  
9 the board may consider any study, survey, data, criteria, or  
10 standard developed or prepared by any federal, state, or local  
11 agency, private foundation, banking or financial institution, or  
12 other reliable source of statistical or financial data or  
13 information.

14 (f) The board may provide financial assistance money under  
15 this subchapter for treatment works only if the board determines  
16 that it is not feasible in the area covered by the application to  
17 use septic tanks as the method for providing sewer services under  
18 the applicant's plan.

19 SECTION 2. Subsection (c), Section 17.958, Water Code, is  
20 amended to read as follows:

21 (c) Money on deposit in the economically distressed areas  
22 program account may be used by the board for purposes provided by  
23 Subchapter K or K-1 in the manner that the board determines  
24 necessary for the administration of the fund.

25 SECTION 3. Subsection (i), Section 15.407, and Subsection  
26 (b), Section 15.974, Water Code, are repealed.

27 SECTION 4. This Act takes effect immediately if it receives

~~1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2005.~~



ADOPTED

FLOOR AMENDMENT NO. 1

MAY 25 2005

BY:

Secretary of the Senate

1 Amend C.S.H.B. No. 467 by striking everything below the  
2 enacting clause and substituting:

3 ~~4~~ SECTION 1. Subsection (a), Section 15.407, Water Code, is  
4 amended to read as follows:

5 (a) In this section, "economically distressed area" and  
6 "political subdivision" have the meanings assigned by Section  
7 17.921 ~~[16.341 of this code]~~.

8 SECTION 2. Subdivisions (1) and (2), Section 16.341, Water  
9 Code, are amended to read as follows:

10 ~~4~~ (1) "Affected county" means a county[+]

11 ~~4~~ ~~4~~ ~~4~~ [(A)] that has an economically distressed area  
12 which has a median household income that is not greater than 75  
13 percent of the median state household income ~~[a per capita~~  
14 ~~income that averaged 25 percent below the state average for the~~  
15 ~~most recent three consecutive years for which statistics are~~  
16 ~~available and an unemployment rate that averaged 25 percent~~  
17 ~~above the state average for the most recent three consecutive~~  
18 ~~years for which statistics are available; or~~

19 ~~[(B) that is adjacent to an international~~  
20 ~~border]~~.

21 ~~4~~ (2) "Economically distressed area" has the meaning  
22 assigned by Section 17.921 ~~[means an area in which:]~~

23 ~~4~~ ~~4~~ ~~4~~ [(A) ~~water supply or sewer services are~~  
24 ~~inadequate to meet minimal needs of residential users as defined~~  
25 ~~by board rules;~~

26 ~~[(B) financial resources are inadequate to~~  
27 ~~provide water supply or sewer services that will satisfy those~~  
28 ~~needs; and~~

29 ~~[(C) an established residential subdivision was~~

1 ~~located on June 1, 1989, as determined by the board].~~

2 4 SECTION 3. Subsections (b) and (c), Section 16.343, Water  
3 Code, are amended to read as follows:

4 (b) The model rules must:

5 44 (1) assure that adequate drinking water is available  
6 to the residential areas in accordance with Chapter 341, Health  
7 and Safety Code, and the Rules and Regulations for Public Water  
8 Systems and the Drinking Water Standards Governing Water Quality  
9 and Reporting Requirements for Public Water Supply Systems  
10 adopted by the commission [~~Texas Board of Health~~] and other law  
11 and rules applicable to drinking water; and

12 (2) provide criteria applicable to tracts that were  
13 divided into two or more parts to lay out a subdivision and were  
14 not platted or recorded before September 1, 2005 [~~1989~~].

15 4 (c) The model rules must:

16 44 (1) assure that adequate sewer facilities are  
17 available to the residential areas through either septic tanks  
18 or an organized sewage disposal system that is a publicly or  
19 privately owned system for the collection, treatment, and  
20 disposal of sewage operated in accordance with the terms and  
21 conditions of a valid waste discharge permit issued by the  
22 commission or private sewage facilities in accordance with  
23 Chapter 366, Health and Safety Code, and the Construction  
24 Standards for On-Site Sewerage Facilities adopted by the  
25 commission and other law and rules applicable to sewage  
26 facilities; and

27 (2) provide criteria applicable to tracts that were  
28 divided into two or more parts to lay out a subdivision and were  
29 not platted or recorded before September 1, 2005 [~~1989~~].

30 4 SECTION 4. Section 17.0112, Water Code, is amended to read  
31 as follows:

1     ~~§~~ Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL  
2 ASSISTANCE. (a) The board may issue not more than \$25 million  
3 in bonds dedicated under Section 17.0111 of this code and may  
4 issue not more than \$50 million in bonds authorized under  
5 Article III, Texas Constitution, during a fiscal year to provide  
6 financial assistance for water supply and sewer services as  
7 provided under Subchapter K of this chapter.

8           (b) On request of the board, the bond review board by  
9 resolution may waive during any state fiscal year the limits  
10 ~~[limit]~~ provided by Subsection (a) ~~[of this section]~~ and  
11 authorize the board to issue an additional amount of bonds if  
12 the bond review board finds that the amount of bonds authorized  
13 for that state fiscal year has been exhausted or there is not a  
14 sufficient amount of bonds to meet needs of the program during  
15 the state fiscal year and that the public health and safety  
16 require immediate authorization of additional bonds. Before the  
17 bond review board adopts such a resolution, it shall give notice  
18 and hold a hearing to determine whether the limits should be  
19 waived and the authorization given.

20           SECTION 5. Section 17.921, Water Code, is amended by  
21 amending Subdivision (1) and adding Subdivision (6) to read as  
22 follows:

23           ~~§~~ (1) "Economically distressed area" means an area in  
24 which:

25           ~~§~~ (A) water supply or sewer services are  
26 inadequate to meet minimal needs of residential users as defined  
27 by board rules;

28           (B) financial resources are inadequate to  
29 provide water supply or sewer services that will satisfy those  
30 needs; and

31           (C) an established residential subdivision was

1 located on June 1, 2005 [~~1989~~], as determined by the board.

2 ~~44~~ (6) "Economically distressed areas account" means the  
3 economically distressed areas account in the Texas Water  
4 Development Fund or the economically distressed areas program  
5 account in the Texas Water Development Fund II.

6 ~~4~~ SECTION 6. Subsection (b), Section 17.922, Water Code, is  
7 amended to read as follows:

8 (b) To the extent practicable, the board shall use the  
9 funds in the economically distressed areas account in  
10 conjunction with the other financial assistance available  
11 through the board to encourage the use of cost-effective water  
12 supply and wastewater systems, including regional systems, to  
13 maximize the long-term economic development of counties eligible  
14 for financial assistance under the economically distressed areas  
15 program. Any savings derived from the construction of a  
16 regional system that includes or serves an economically  
17 distressed area project shall be factored into the board's  
18 determination of financial assistance for the economically  
19 distressed area in a manner that assures the economically  
20 distressed area receives appropriate benefits from the savings.  
21 In no event shall financial assistance provided from the  
22 economically distressed areas account be used to provide water  
23 supply or wastewater service to any area that is not [~~defined~~  
24 ~~as~~] an economically distressed area [~~pursuant to Section~~  
25 ~~17.921(1)(A) of this code~~].

26 SECTION 7. Subsections (b), (c), and (d), Section <sup>5</sup> 17.927,  
27 Water Code, are amended to read as follows:

28 (b) The application and plan must include:

29 ~~44~~ (1) the name of the political subdivision and its  
30 principal officers [~~comply with board requirements~~];

31 (2) a citation of the law under which the political

1 subdivision was created and operates ~~[describe in detail the~~  
2 ~~method for delivering water supply and sewer services and the~~  
3 ~~persons to whom the services will be provided];~~

4 ~~44~~ (3) a project plan, prepared and certified by an  
5 engineer registered to practice in this state, that must:

6 ~~44~~ (A) describe the proposed planning, design, and  
7 construction activities necessary to provide water supply and  
8 sewer services that meet minimum state standards; and

9 (B) identify the households to which the water  
10 supply and sewer services will be provided ~~[describe the method~~  
11 ~~for complying with minimum state standards for water supply and~~  
12 ~~sewer services adopted by the board under Section 16.342 of this~~  
13 ~~code];~~

14 ~~44~~ (4) ~~[include]~~ a budget that estimates the total cost  
15 of providing water supply and sewer services to the economically  
16 distressed area and a proposed schedule and method for repayment  
17 of financial assistance consistent with board rules and  
18 guidelines;

19 (5) a description of the ~~[describe]~~ existing water  
20 supply and sewer facilities located in the ~~[economically~~  
21 ~~distressed]~~ area to be served by the proposed project, including  
22 a statement ~~[and include with the description]~~

23 ~~44~~ ~~[(A) the county map required by Section 366.036,~~  
24 ~~Health and Safety Code; or~~

25 ~~[(B) a document]~~ prepared and certified by an  
26 engineer registered to practice in this state that the  
27 facilities do not meet minimum state standards ~~[describing the~~  
28 ~~plan for providing water supply and sewer services to the~~  
29 ~~economically distressed area];~~

30 ~~44~~ (6) documentation ~~[provide proof]~~ that the  
31 appropriate political subdivision has adopted the model rules

1 developed under Section 16.343 [~~of this code~~];

2 ~~44~~ (7) [~~include~~] information identifying the median  
3 household income for the area to be served by the proposed  
4 project [~~on the ability of potential customers to pay for the~~  
5 ~~services provided by the project including composite data~~  
6 ~~prepared by the applicant pursuant to board rules and guidelines~~  
7 ~~from surveys of those potential customers covering income,~~  
8 ~~family size, personal expenses, employment status, and other~~  
9 ~~information required by board rule~~]; and

10 (8) the total amount of assistance requested from the  
11 economically distressed areas account [~~include an estimate of~~  
12 ~~the per household cost of providing the services contemplated by~~  
13 ~~the project with supporting data,~~

14 [~~(9) describe the procedures to be used to collect~~  
15 ~~money from residents who use the proposed water supply and sewer~~  
16 ~~services including procedures for collection of delinquent~~  
17 ~~accounts,~~

18 [~~(10) include a requirement that a contractor who~~  
19 ~~agrees to acquire, construct, extend, or provide water supply~~  
20 ~~and sewer services executes a performance bond in the amount of~~  
21 ~~100 percent of the contract price,~~

22 [~~(11) contain an agreement to comply with applicable~~  
23 ~~procurement procedures in contract awards for water supply and~~  
24 ~~sewer services,~~

25 [~~(12) if located in the service area of a retail~~  
26 ~~public utility or public utility that has a certificate of~~  
27 ~~public convenience and necessity under Chapter 13 of this code,~~  
28 ~~include a document in the form of an affidavit signed by the~~  
29 ~~chief executive officer of the utility, which shall cooperate~~  
30 ~~with the political subdivision, stating that the utility does~~  
31 ~~not object to the construction and operation of the services and~~

1 ~~facilities in its service area;~~

2 ~~44 [(13) include a map of the economically distressed~~  
3 ~~area together with supporting information relating to dwellings~~  
4 ~~in the area;~~

5 ~~[(14) describe in detail the methods for~~  
6 ~~incorporating water conservation into the provision of water and~~  
7 ~~sewer services to the economically distressed area;~~

8 ~~[(15) include, on request of the board, a written~~  
9 ~~determination by the commission on the managerial, financial,~~  
10 ~~and technical capabilities of the applicant to operate the~~  
11 ~~system for which assistance is being requested; and~~

12 ~~[(16) include any other information required by the~~  
13 ~~board].~~

14 ~~44~~ (c) Before the board approves the application or provides  
15 any funds under an application, it shall require an applicant to  
16 adopt a program of water conservation for the more effective use  
17 of water that meets the criteria established under Section  
18 17.125 ~~[If an applicant is a district or nonprofit water supply~~  
19 ~~corporation, the applicant must include with the application~~  
20 ~~proof that the appropriate county and municipalities have given~~  
21 ~~their consent].~~

22 (d) Before considering an application, the board may  
23 require the applicant to:

24 ~~44~~ (1) provide documentation to the executive  
25 administrator sufficient to allow review of the applicant's  
26 managerial, financial, and technical capabilities to operate the  
27 system for which assistance is being requested;

28 (2) provide a written determination by the commission  
29 on the applicant's managerial, financial, and technical  
30 capabilities to operate the system for which assistance is being  
31 requested;

1        ~~44~~ (3) request that the comptroller perform a financial  
2 management review of the applicant and, if the review is  
3 performed, provide the board with the results of the review; or

4                (4) provide any other information required by the  
5 board or the executive administrator [~~In an application to the~~  
6 ~~board for financial assistance for a water supply project or for~~  
7 ~~sewer services, the applicant shall include:~~

8                [~~(1) the name of the political subdivision and its~~  
9 ~~principal officers;~~

10               [~~(2) a citation of the law under which the political~~  
11 ~~subdivision operates and was created;~~

12               [~~(3) a description of the water supply project or the~~  
13 ~~sewer services for which the financial assistance will be used;~~

14               [~~(4) the estimated total cost of the water supply~~  
15 ~~project or sewer services construction;~~

16               [~~(5) the amount of state financial assistance~~  
17 ~~requested;~~

18               [~~(6) the plan for repaying the financial assistance~~  
19 ~~provided for the water supply project or sewer services; and~~

20               [~~(7) any other information the board requires~~].

21        ~~44~~ SECTION 8. Section 17.929, Water Code, is amended to read  
22 as follows:

23               Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION.

24        (a) In passing on an application for financial assistance, the  
25 board shall consider:

26        ~~44~~ (1) the need of the economically distressed area to  
27 be served by the water supply and sewer services in relation to  
28 the need of other political subdivisions requiring financial  
29 assistance under this subchapter and the relative costs and  
30 benefits of all applications;

31               (2) the availability to the area to be served by the



1 project of revenue or financial assistance from alternative  
2 sources for the payment of the cost of the proposed project  
3 ~~[efforts by the residents of the economically distressed area to~~  
4 ~~provide necessary water supply and sewer services];~~

5 44 (3) ~~[the proposed use of labor from inside the~~  
6 ~~political subdivision to perform contracts for providing water~~  
7 ~~supply and sewer services;~~

8 ~~[(4) the relationship of the proposed water supply~~  
9 ~~and sewer services to minimum state standards for water supply~~  
10 ~~and sewer services adopted under Section 16.343 of this code;~~

11 ~~[(5)]~~ the financing of the proposed water supply and  
12 sewer project including consideration of:

13 44 (A) the budget and repayment schedule submitted  
14 under Section 17.927(b)(4) ~~[of this code];~~

15 (B) other items included in the application  
16 relating to financing; and

17 (C) other financial information and data  
18 available to the board;

19 44 (4) ~~[(6) whether the applicant has proposed methods~~  
20 ~~for incorporating water conservation into the provision of water~~  
21 ~~and sewer services to the economically distressed area;~~

22 ~~[(7)]~~ whether the county and other appropriate  
23 political subdivisions have ~~[has]~~ adopted model rules pursuant  
24 to Section 16.343 ~~[of this code]~~ and the manner of enforcement  
25 of model rules;

26 ~~[(8) the feasibility of creating a conservation and~~  
27 ~~reclamation district under Article XVI, Section 59, of the Texas~~  
28 ~~Constitution, to provide the services and finance the water~~  
29 ~~supply and sewer services covered by the application with~~  
30 ~~district bonds issued and sold through the regular bond market;~~

31 ~~[(9) the percentage of the total project cost that~~

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1 ~~the financial assistance will comprise,~~ and

2 ~~44~~ (5) ~~(10)~~ the feasibility of achieving cost savings  
3 by providing a regional facility for water supply or wastewater  
4 service and the feasibility of financing the facility by using  
5 funds from the economically distressed areas account or any  
6 other financial assistance.

7 ~~44~~ (b) At the time an application for financial assistance is  
8 considered, the board also must find that the area to be served  
9 by a proposed project has a median household income that is not  
10 greater than 75 percent of the median state household income ~~[an~~  
11 ~~average per capita income that is at least 25 percent below the~~  
12 ~~state average]~~ for the most recent year ~~[three consecutive~~  
13 ~~years]~~ for which statistics are available.

14 SECTION 9. Subsection (b), Section 17.930, Water Code, is  
15 amended to read as follows:

16 (b) After making the considerations provided by Section  
17 17.929 ~~[of this code]~~, the board by resolution shall:

18 ~~44~~ (1) approve the plan and application as submitted;

19 (2) approve the plan and application subject to the  
20 requirements identified by the board or commission for the  
21 applicant to obtain the managerial, financial, and technical  
22 capabilities to operate the system and any other requirements,  
23 including training under Subchapter M, the board considers  
24 appropriate;

25 (3) deny the application and identify the  
26 requirements or remedial steps the applicant must complete  
27 before the applicant may be reconsidered for financial  
28 assistance;

29 (4) if the board finds that the applicant will be  
30 unable to obtain the managerial, financial, or technical  
31 capabilities to build and operate a system, deny the application

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WA 17929

1 and issue a determination that a service provider other than the  
2 applicant is necessary or appropriate to undertake the proposed  
3 project; or

4 ~~44~~ (5) deny the application.

5 ~~4~~ SECTION 10. Subsections (a) and (c), Section 17.933, Water  
6 Code, are amended to read as follows:

7 (a) The board may use money in the economically distressed  
8 areas account to provide financial assistance to a political  
9 subdivision ~~[to be repaid]~~ in the form of a loan, including a  
10 loan with zero interest, grant, or other type of financial  
11 assistance to be determined ~~[, manner, and time provided]~~ by the  
12 board ~~[rules and in the agreement between the board and the~~  
13 ~~political subdivision]~~ taking into consideration the information  
14 provided by Section 17.927(b)(7) ~~[of this code]~~.

15 (c) The total amount of financial assistance provided by  
16 the board to political subdivisions under this subchapter from  
17 state-issued bonds for which repayment is not required may not  
18 exceed at any time 90 percent of the total principal amount of  
19 issued and unissued bonds authorized under Article III ~~[, Section~~  
20 ~~49-d-7]~~ of the Texas Constitution, for purposes of this  
21 subchapter plus outstanding interest on those bonds.

22 SECTION 11. Section 17.952<sup>✓</sup>, Water Code, is amended to read  
23 as follows:

24 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.  
25 The board by resolution may provide for the issuance of water  
26 financial assistance bonds, which shall be general obligation  
27 bonds of the state, in an aggregate principal amount not to  
28 exceed the principal amount authorized to be issued by the  
29 ~~[Section 49-d-8, Article III,]~~ Texas Constitution.

30 SECTION 12. Subsection (a), Section 17.993, Water Code, is  
31 amended to read as follows:

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WA 17952

1     # (a) The commission or the board may evaluate whether an  
2     operating entity needs training if the operating entity:

3         ## (1) requests financial assistance or an amendment to  
4     the project plan or budget [~~additional funding~~];

5         (2) requests more time to meet its obligations under  
6     a repayment schedule;

7         (3) does not provide required documentation; or

8         (4) has a history of compliance problems, as  
9     determined by the commission.

10     # SECTION 13. ~~Subsection~~ (a), Section 212.0105, Local  
11     Government Code, is amended to read as follows:

12         (a) This section applies only to a person who:

13         ## (1) is the owner of a tract of land in [~~either~~

14         ## [~~(A) a county that is contiguous to an~~  
15     ~~international border; or~~

16         [~~(B)~~] a county in which a political subdivision  
17     that is eligible for and has applied for [~~has received~~]  
18     financial assistance through Subchapter K, Chapter 17, Water  
19     Code;

20         ## (2) divides the tract in a manner that creates any  
21     lots that are intended for residential purposes and are five  
22     acres or less; and

23         (3) is required under this subchapter to have a plat  
24     prepared for the subdivision.

25     # SECTION 14. Section 232.071, Local Government Code, is  
26     amended to read as follows:

27     Sec. 232.071. APPLICABILITY. This subchapter applies only  
28     to the subdivision of land located:

29         ## (1) outside the corporate limits of a municipality;  
30     and

31         (2) in a county:

1           44 (A) in which is located a political subdivision  
2 that is eligible for and has applied for financial assistance  
3 under Section 15.407, Water Code, or Subchapter K, Chapter 17,  
4 Water Code; and

5                   (B) to which Subchapter B does not apply.

6       SECTION 15. Subsection (i), Section 15.407, ~~Subsection~~  
7 (f), Section 16.343, Sections 17.923 through 17.926, and  
8 Subsection (g), Section 17.933, Water Code, are repealed.

9       SECTION 16. The changes in law made by this Act apply only  
10 to an application for financial assistance pending or filed on  
11 or after the effective date of this Act.

12       SECTION 17. This Act takes effect on September 1, 2005.

# SENATE AMENDMENTS

05 MAY 23 PM 8:27  
HOUSE OF REPRESENTATIVES

2<sup>nd</sup> Printing

By: Bailey, Howard, Olivo

H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs and the provision of sewer connections in disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions of this chapter, Chapter 16, or Chapter 17, a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17 for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Sections 16.343(f) and (g), Water Code, are amended to read as follows:

(f) Notwithstanding any other law to the contrary, the only kind of county that may adopt the model rules is:

(1) an affected county; or

(2) a county described by Section 15.009.

(g) Before an application for funds under Section 15.407 or

Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, a political subdivision must adopt the model rules pursuant to this section. A county described by Section 15.009 may limit the applicability of the model rules to the portion of the county for which the application is made. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules.

SECTION 3. Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.9345 to read as follows:

Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN ECONOMICALLY DISTRESSED AREAS. (a) On request of an owner or occupant of land located in a municipality on which a new residential structure is being constructed and that is adjacent to a street, the municipality shall provide sewer service connections on both sides of the street.

(b) The cost of providing sewer service connections under Subsection (a) shall be borne by the municipality.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

ADOPTED

as amended  
MAY 25 2005

30-1  
Atty. Gen.  
Secretary of the Senate

By: \_\_\_\_\_

H.B. No. 467

Substitute the following for \_\_\_\_B. No. \_\_\_\_:

By: Stapler

C.S. H.B. No. 467

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created



1' Under Section 52, Article III, or Section 59, Article XVI, Texas  
2 Constitution.

3 (4) "Sewer services" and "sewer facilities" mean  
4 treatment works or individual, on-site, or cluster treatment  
5 systems such as septic tanks and include drainage facilities and  
6 other improvements for proper functioning of the sewer services and  
7 other facilities.

8 Sec. 17.942. FINANCIAL ASSISTANCE. The economically  
9 distressed areas program account may be used by the board to provide  
10 financial assistance to political subdivisions for the  
11 construction, acquisition, or improvement of water supply and sewer  
12 services, including providing money from the account for the  
13 state's participation in federal programs that provide assistance  
14 to political subdivisions. Money from the proceeds of bonds issued  
15 under the authority of Section 49-d-7(b) or 49-d-8, Article III,  
16 Texas Constitution, may not be used to provide financial assistance  
17 under this subchapter.

18 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A  
19 political subdivision may apply to the board for financial  
20 assistance under this subchapter by submitting an application  
21 together with a plan for providing water supply or sewer services to  
22 an economically distressed area.

23 (b) The application and plan must include:

24 (1) the name of the political subdivision and its  
25 principal officers;

26 (2) a citation of the law under which the political  
27 subdivision was created and operates;

1           (3) a description of the existing water supply and  
2 sewer facilities located in the area to be served by the proposed  
3 project and, along with the description, a statement prepared and  
4 certified by an engineer registered to practice in this state that  
5 the facilities do not meet minimum state standards;

6           (4) information identifying the median household  
7 income for the area to be served by the proposed project;

8           (5) a project plan prepared and certified by an  
9 engineer registered to practice in this state that:

10           (A) describes the proposed planning, design, and  
11 construction activities necessary for providing water supply and  
12 sewer services that meet minimum state standards; and

13           (B) identifies the households to which the  
14 services will be provided;

15           (6) a budget that estimates the total cost of  
16 providing water supply and sewer services to the economically  
17 distressed area and a proposed schedule and method for repayment of  
18 financial assistance consistent with board rules and guidelines;  
19 and

20           (7) the total amount of assistance requested from the  
21 economically distressed areas program account.

22           (c) A program of water conservation for the more effective  
23 use of water is required for the approval of an application for  
24 financial assistance under this section in the same manner as such a  
25 program is required for the approval of an application for  
26 financial assistance under Section 17.125.

27           (d) Before considering the application, the board may

1 require the applicant to:

2 (1) participate with the board in reviewing the  
3 applicant's managerial, financial, or technical capabilities to  
4 operate the system for which assistance is being requested;

5 (2) provide a written determination by the commission  
6 of the applicant's managerial, financial, and technical  
7 capabilities to operate the system for which assistance is being  
8 requested;

9 (3) request that the comptroller perform a financial  
10 management review of the applicant's current operations and, if the  
11 comptroller is available to perform the review, provide the board  
12 with the results of the review; or

13 (4) provide any other information required by the  
14 board or the executive administrator.

15 Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

16 (a) In reviewing an application for financial assistance, the  
17 board shall consider:

18 (1) the need of the economically distressed area to be  
19 served by the water supply or sewer services in relation to the need  
20 of other political subdivisions requiring financial assistance  
21 under this subchapter and the relative costs and benefits of all  
22 applications;

23 (2) the availability of revenue or alternative  
24 financial assistance for the area served by the project, from all  
25 sources, for the payment of the cost of the proposed project;

26 (3) the financing of the proposed water supply or  
27 sewer project, including consideration of:

1                   (A) the budget and repayment schedule submitted  
2 under Section 17.943(b)(6);

3                   (B) other items included in the application  
4 relating to financing; and

5                   (C) other financial information and data  
6 available to the board; and

7                   (4) the feasibility of achieving cost savings by  
8 providing a regional facility for water supply or wastewater  
9 service and the feasibility of financing the project by using money  
10 from the economically distressed areas program account or any other  
11 available financial assistance.

12           (b) At the time an application for financial assistance is  
13 considered, the board must also find that the area to be served by a  
14 proposed project has a median household income of not more than 75  
15 percent of the median state household income for the most recent  
16 year for which statistics are available.

17           Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After  
18 considering the matters described by Section 17.944, the board by  
19 resolution shall:

20                   (1) approve the plan and application as submitted;

21                   (2) approve the plan and application subject to the  
22 requirements identified by the board or commission for the  
23 applicant to obtain the managerial, financial, and technical  
24 capabilities to operate the system and any other requirements,  
25 including training under Subchapter M, the board considers  
26 appropriate;

27                   (3) deny the application and identify the requirements

1 or remedial steps the applicant must complete before the applicant  
2 may be reconsidered for financial assistance;

3 (4) if the board finds that the applicant will be  
4 unable to obtain the managerial, financial, or technical  
5 capabilities to build and operate a system, deny the application  
6 and issue a determination that a service provider other than the  
7 applicant is necessary or appropriate to undertake the proposed  
8 project; or

9 (5) deny the application.

10 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board  
11 may not release money for the construction of that portion of a  
12 project that proposes surface water or groundwater development  
13 until the executive administrator makes a written finding:

14 (1) that an applicant proposing surface water  
15 development has the necessary water right authorizing it to  
16 appropriate and use the water that the water supply project will  
17 provide; or

18 (2) that an applicant proposing groundwater  
19 development has the right to use water that the water supply project  
20 will provide.

21 (b) The board may release money for the costs of planning,  
22 engineering, architectural, legal, title, fiscal, or economic  
23 investigation, studies, surveys, or designs before making the  
24 finding required under Subsection (a) if the executive  
25 administrator determines that a reasonable expectation exists that  
26 the finding will be made before the release of funds for  
27 construction.

1        (c) If an applicant includes a proposal for treatment works,  
2 the board may not deliver money for the treatment works until the  
3 applicant has received a permit for construction and operation of  
4 the treatment works and approval of the plans and specifications  
5 from the commission, unless such a permit is not required by the  
6 commission.

7        Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The  
8 board may provide financial assistance to political subdivisions  
9 under this subchapter by using money in the economically distressed  
10 areas program account to purchase political subdivision bonds.

11        (b) The board may make financial assistance available to  
12 political subdivisions in any other manner that it considers  
13 feasible, including:

14                (1) contracts or agreements with a political  
15 subdivision for acceptance of financial assistance that establish  
16 any repayment based on the political subdivision's ability to repay  
17 the assistance and that establish requirements for acceptance of  
18 the assistance; or

19                (2) contracts or agreements for providing financial  
20 assistance in any federal or federally assisted project or program.

21        Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board  
22 may use money in the economically distressed areas program account  
23 to provide financial assistance under this subchapter to a  
24 political subdivision to be repaid in the form, manner, and time  
25 provided by board rules and in the agreement between the board and  
26 the political subdivision, taking into consideration the  
27 information provided under Section 17.943.

1        (b) In providing financial assistance to an applicant under  
2 this subchapter, the board may not provide to the applicant  
3 financial assistance for which repayment is not required in an  
4 amount that exceeds 50 percent of the total amount of the financial  
5 assistance plus interest on any amount that must be repaid, unless  
6 the Department of State Health Services issues a finding that a  
7 nuisance dangerous to the public health and safety exists resulting  
8 from water supply and sanitation problems in the area to be served  
9 by the proposed project. The board and the applicant shall provide  
10 to the department information necessary to make a determination,  
11 and the board and the department may enter into memoranda of  
12 understanding necessary to carry out this subsection.

13        (c) The total amount of financial assistance provided by the  
14 board to political subdivisions under this subchapter from  
15 state-issued bonds for which repayment is not required may not  
16 exceed at any time 90 percent of the total principal amount of  
17 issued and unissued bonds authorized for purposes of this  
18 subchapter.

19        (d) In determining the amount and form of financial  
20 assistance and the amount and form of repayment, if any, the board  
21 shall consider:

22            (1) rates, fees, and charges that the average customer  
23 to be served by the project will be able to pay based on a comparison  
24 of what other families of similar income who are similarly situated  
25 pay for comparable services;

26            (2) sources of funding available to the political  
27 subdivision from federal and private money and from other state

1 money;

2           (3) any local money of the political subdivision to be  
3 served by the project if the economically distressed area to be  
4 served by the board's financial assistance is within the boundary  
5 of the political subdivision; and

6           (4) the just, fair, and reasonable charges for water  
7 and wastewater service as provided by this code.

8           (e) In making its determination under Subsection (d)(1),  
9 the board may consider any study, survey, data, criteria, or  
10 standard developed or prepared by any federal, state, or local  
11 agency, private foundation, banking or financial institution, or  
12 other reliable source of statistical or financial data or  
13 information.

14           (f) The board may provide financial assistance money under  
15 this subchapter for treatment works only if the board determines  
16 that it is not feasible in the area covered by the application to  
17 use septic tanks as the method for providing sewer services under  
18 the applicant's plan.

19           SECTION 2. Subsection (c), Section 17.958, Water Code, is  
20 amended to read as follows:

21           (c) Money on deposit in the economically distressed areas  
22 program account may be used by the board for purposes provided by  
23 Subchapter K or K-1 in the manner that the board determines  
24 necessary for the administration of the fund.

25           SECTION 3. Subsection (i), Section 15.407, and Subsection  
26 (b), Section 15.974, Water Code, are repealed.

27           SECTION 4. This Act takes effect immediately if it receives



1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2005.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 25 2005

BY:

*Atty. Gen.*  
Secretary of the Senate

*Luis*

1 Amend C.S.H.B. No. 467 by striking everything below the  
2 enacting clause and substituting:

3 SECTION 1. Subsection (a), Section 15.407, Water Code, is  
4 amended to read as follows:

5 (a) In this section, "economically distressed area" and  
6 "political subdivision" have the meanings assigned by Section  
7 17.921 [~~16.341 of this code~~].

8 SECTION 2. Subdivisions (1) and (2), Section 16.341, Water  
9 Code, are amended to read as follows:

10 (1) "Affected county" means a county[+]

11 [~~(A)~~] that has an economically distressed area  
12 which has a median household income that is not greater than 75  
13 percent of the median state household income [~~a per capita~~  
14 ~~income that averaged 25 percent below the state average for the~~  
15 ~~most recent three consecutive years for which statistics are~~  
16 ~~available and an unemployment rate that averaged 25 percent~~  
17 ~~above the state average for the most recent three consecutive~~  
18 ~~years for which statistics are available; or~~

19 [~~(B)~~ that is adjacent to an international  
20 border].

21 (2) "Economically distressed area" has the meaning  
22 assigned by Section 17.921 [~~means an area in which:~~

23 [~~(A)~~ water supply or sewer services are  
24 inadequate to meet minimal needs of residential users as defined  
25 by board rules;

26 [~~(B)~~ financial resources are inadequate to  
27 provide water supply or sewer services that will satisfy those  
28 needs; and

29 [~~(C)~~ an established residential subdivision was

1 ~~located on June 1, 1989, as determined by the board]~~.

2 SECTION 3. Subsections (b) and (c), Section 16.343, Water  
3 Code, are amended to read as follows:

4 (b) The model rules must:

5 (1) assure that adequate drinking water is available  
6 to the residential areas in accordance with Chapter 341, Health  
7 and Safety Code, and the Rules and Regulations for Public Water  
8 Systems and the Drinking Water Standards Governing Water Quality  
9 and Reporting Requirements for Public Water Supply Systems  
10 adopted by the commission [~~Texas Board of Health~~] and other law  
11 and rules applicable to drinking water; and

12 (2) provide criteria applicable to tracts that were  
13 divided into two or more parts to lay out a subdivision and were  
14 not platted or recorded before September 1, 2005 [~~1989~~].

15 (c) The model rules must:

16 (1) assure that adequate sewer facilities are  
17 available to the residential areas through either septic tanks  
18 or an organized sewage disposal system that is a publicly or  
19 privately owned system for the collection, treatment, and  
20 disposal of sewage operated in accordance with the terms and  
21 conditions of a valid waste discharge permit issued by the  
22 commission or private sewage facilities in accordance with  
23 Chapter 366, Health and Safety Code, and the Construction  
24 Standards for On-Site Sewerage Facilities adopted by the  
25 commission and other law and rules applicable to sewage  
26 facilities; and

27 (2) provide criteria applicable to tracts that were  
28 divided into two or more parts to lay out a subdivision and were  
29 not platted or recorded before September 1, 2005 [~~1989~~].

30 SECTION 4. Section 17.0112, Water Code, is amended to read  
31 as follows:

1       Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL  
2 ASSISTANCE. (a) The board may issue not more than \$25 million  
3 in bonds dedicated under Section 17.0111 of this code and may  
4 issue not more than \$50 million in bonds authorized under  
5 Article III, Texas Constitution, during a fiscal year to provide  
6 financial assistance for water supply and sewer services as  
7 provided under Subchapter K of this chapter.

8       (b) On request of the board, the bond review board by  
9 resolution may waive during any state fiscal year the limits  
10 [~~limit~~] provided by Subsection (a) [~~of this section~~] and  
11 authorize the board to issue an additional amount of bonds if  
12 the bond review board finds that the amount of bonds authorized  
13 for that state fiscal year has been exhausted or there is not a  
14 sufficient amount of bonds to meet needs of the program during  
15 the state fiscal year and that the public health and safety  
16 require immediate authorization of additional bonds. Before the  
17 bond review board adopts such a resolution, it shall give notice  
18 and hold a hearing to determine whether the limits should be  
19 waived and the authorization given.

20       SECTION 5. Section 17.921, Water Code, is amended by  
21 amending Subdivision (1) and adding Subdivision (6) to read as  
22 follows:

23               (1) "Economically distressed area" means an area in  
24 which:

25                       (A) water supply or sewer services are  
26 inadequate to meet minimal needs of residential users as defined  
27 by board rules;

28                       (B) financial resources are inadequate to  
29 provide water supply or sewer services that will satisfy those  
30 needs; and

31                       (C) an established residential subdivision was

1 located on June 1, 2005 [~~1989~~], as determined by the board.

2 (6) "Economically distressed areas account" means the  
3 economically distressed areas account in the Texas Water  
4 Development Fund or the economically distressed areas program  
5 account in the Texas Water Development Fund II.

6 SECTION 6. Subsection (b), Section 17.922, Water Code, is  
7 amended to read as follows:

8 (b) To the extent practicable, the board shall use the  
9 funds in the economically distressed areas account in  
10 conjunction with the other financial assistance available  
11 through the board to encourage the use of cost-effective water  
12 supply and wastewater systems, including regional systems, to  
13 maximize the long-term economic development of counties eligible  
14 for financial assistance under the economically distressed areas  
15 program. Any savings derived from the construction of a  
16 regional system that includes or serves an economically  
17 distressed area project shall be factored into the board's  
18 determination of financial assistance for the economically  
19 distressed area in a manner that assures the economically  
20 distressed area receives appropriate benefits from the savings.  
21 In no event shall financial assistance provided from the  
22 economically distressed areas account be used to provide water  
23 supply or wastewater service to any area that is not [~~defined~~  
24 ~~as~~] an economically distressed area [~~pursuant to Section~~  
25 ~~17.921(1)(A) of this code~~].

26 SECTION 7. Subsections (b), (c), and (d), Section 17.927,  
27 Water Code, are amended to read as follows:

28 (b) The application and plan must include:

29 (1) the name of the political subdivision and its  
30 principal officers [~~comply with board requirements~~];

31 (2) a citation of the law under which the political

1 subdivision was created and operates ~~[describe in detail the~~  
2 ~~method for delivering water supply and sewer services and the~~  
3 ~~persons to whom the services will be provided]~~;

4 (3) a project plan, prepared and certified by an  
5 engineer registered to practice in this state, that must:

6 (A) describe the proposed planning, design, and  
7 construction activities necessary to provide water supply and  
8 sewer services that meet minimum state standards; and

9 (B) identify the households to which the water  
10 supply and sewer services will be provided ~~[describe the method~~  
11 ~~for complying with minimum state standards for water supply and~~  
12 ~~sewer services adopted by the board under Section 16.342 of this~~  
13 ~~code]~~;

14 (4) ~~[include]~~ a budget that estimates the total cost  
15 of providing water supply and sewer services to the economically  
16 distressed area and a proposed schedule and method for repayment  
17 of financial assistance consistent with board rules and  
18 guidelines;

19 (5) a description of the ~~[describe]~~ existing water  
20 supply and sewer facilities located in the ~~[economically~~  
21 ~~distressed]~~ area to be served by the proposed project, including  
22 a statement ~~[and include with the description:]~~

23 ~~[(A) the county map required by Section 366.036,~~  
24 ~~Health and Safety Code; or~~

25 ~~[(B) a document]~~ prepared and certified by an  
26 engineer registered to practice in this state that the  
27 facilities do not meet minimum state standards ~~[describing the~~  
28 ~~plan for providing water supply and sewer services to the~~  
29 ~~economically distressed area]~~;

30 (6) documentation ~~[provide proof]~~ that the  
31 appropriate political subdivision has adopted the model rules

1 developed under Section 16.343 ~~[of this code]~~;

2 (7) ~~[include]~~ information identifying the median  
3 household income for the area to be served by the proposed  
4 project ~~[on the ability of potential customers to pay for the~~  
5 ~~services provided by the project including composite data~~  
6 ~~prepared by the applicant pursuant to board rules and guidelines~~  
7 ~~from surveys of those potential customers covering income,~~  
8 ~~family size, personal expenses, employment status, and other~~  
9 ~~information required by board rule]~~; and

10 (8) the total amount of assistance requested from t  
11 economically distressed areas account ~~[include an estimate~~  
12 ~~the per household cost of providing the services contemplated~~  
13 ~~the project with supporting data;~~

14 ~~[(9) describe the procedures to be used to collect~~  
15 ~~money from residents who use the proposed water supply and sewer~~  
16 ~~services including procedures for collection of delinquent~~  
17 ~~accounts;~~

18 ~~[(10) include a requirement that a contractor who~~  
19 ~~agrees to acquire, construct, extend, or provide water supply~~  
20 ~~and sewer services executes a performance bond in the amount of~~  
21 ~~100 percent of the contract price;~~

22 ~~[(11) contain an agreement to comply with applicable~~  
23 ~~procurement procedures in contract awards for water supply and~~  
24 ~~sewer services;~~

25 ~~[(12) if located in the service area of a retail~~  
26 ~~public utility or public utility that has a certificate of~~  
27 ~~public convenience and necessity under Chapter 13 of this code,~~  
28 ~~include a document in the form of an affidavit signed by the~~  
29 ~~chief executive officer of the utility, which shall cooperate~~  
30 ~~with the political subdivision, stating that the utility does~~  
31 ~~not object to the construction and operation of the services and~~

1 ~~facilities in its service area;~~

2 ~~[(13) include a map of the economically distressed~~  
3 ~~area together with supporting information relating to dwellings~~  
4 ~~in the area;~~

5 ~~[(14) describe in detail the methods for~~  
6 ~~incorporating water conservation into the provision of water and~~  
7 ~~sewer services to the economically distressed area;~~

8 ~~[(15) include, on request of the board, a written~~  
9 ~~determination by the commission on the managerial, financial,~~  
10 ~~and technical capabilities of the applicant to operate the~~  
11 ~~system for which assistance is being requested; and~~

12 ~~[(16) include any other information required by the~~  
13 ~~board].~~

14 (c) Before the board approves the application or provides  
15 any funds under an application, it shall require an applicant to  
16 adopt a program of water conservation for the more effective use  
17 of water that meets the criteria established under Section  
18 17.125 ~~[If an applicant is a district or nonprofit water supply~~  
19 ~~corporation, the applicant must include with the application~~  
20 ~~proof that the appropriate county and municipalities have given~~  
21 ~~their consent].~~

22 (d) Before considering an application, the board may  
23 require the applicant to:

24 (1) provide documentation to the executive  
25 administrator sufficient to allow review of the applicant's  
26 managerial, financial, and technical capabilities to operate the  
27 system for which assistance is being requested;

28 (2) provide a written determination by the commission  
29 on the applicant's managerial, financial, and technical  
30 capabilities to operate the system for which assistance is being  
31 requested;



1           (3) request that the comptroller perform a financial  
2 management review of the applicant and, if the review is  
3 performed, provide the board with the results of the review; or

4           (4) provide any other information required by the  
5 board or the executive administrator [~~In an application to the~~  
6 ~~board for financial assistance for a water supply project or for~~  
7 ~~sewer services, the applicant shall include:~~

8           ~~[(1) the name of the political subdivision and its~~  
9 ~~principal officers;~~

10           ~~[(2) a citation of the law under which the political~~  
11 ~~subdivision operates and was created;~~

12           ~~[(3) a description of the water supply project or the~~  
13 ~~sewer services for which the financial assistance will be used;~~

14           ~~[(4) the estimated total cost of the water supply~~  
15 ~~project or sewer services construction;~~

16           ~~[(5) the amount of state financial assistance~~  
17 ~~requested;~~

18           ~~[(6) the plan for repaying the financial assistance~~  
19 ~~provided for the water supply project or sewer services; and~~

20           ~~[(7) any other information the board requires].~~

21       SECTION 8. Section 17.929, Water Code, is amended to read  
22 as follows:

23       Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION.

24       (a) In passing on an application for financial assistance, the  
25 board shall consider:

26           (1) the need of the economically distressed area to  
27 be served by the water supply and sewer services in relation to  
28 the need of other political subdivisions requiring financial  
29 assistance under this subchapter and the relative costs and  
30 benefits of all applications;

31           (2) the availability to the area to be served by the

1 project of revenue or financial assistance from alternative  
2 sources for the payment of the cost of the proposed project  
3 ~~[efforts by the residents of the economically distressed area to~~  
4 ~~provide necessary water supply and sewer services];~~

5 (3) ~~[the proposed use of labor from inside the~~  
6 ~~political subdivision to perform contracts for providing water~~  
7 ~~supply and sewer services;~~

8 ~~[(4) the relationship of the proposed water supply~~  
9 ~~and sewer services to minimum state standards for water supply~~  
10 ~~and sewer services adopted under Section 16.343 of this code;~~

11 ~~[(5)]~~ the financing of the proposed water supply and  
12 sewer project including consideration of:

13 (A) the budget and repayment schedule submitted  
14 under Section 17.927(b)(4) ~~[of this code];~~

15 (B) other items included in the application  
16 relating to financing; and

17 (C) other financial information and data  
18 available to the board;

19 (4) ~~[(6) whether the applicant has proposed methods~~  
20 ~~for incorporating water conservation into the provision of water~~  
21 ~~and sewer services to the economically distressed area;~~

22 ~~[(7)]~~ whether the county and other appropriate  
23 political subdivisions have ~~[has]~~ adopted model rules pursuant  
24 to Section 16.343 ~~[of this code]~~ and the manner of enforcement  
25 of model rules;

26 ~~[(8) the feasibility of creating a conservation and~~  
27 ~~reclamation district under Article XVI, Section 59, of the Texas~~  
28 ~~Constitution, to provide the services and finance the water~~  
29 ~~supply and sewer services covered by the application with~~  
30 ~~district bonds issued and sold through the regular bond market;~~

31 ~~[(9) the percentage of the total project cost that~~

2

26

1 ~~the financial assistance will comprise;~~ and

2           (5) ~~[(+10)]~~ the feasibility of achieving cost savings  
3 by providing a regional facility for water supply or wastewater  
4 service and the feasibility of financing the facility by using  
5 funds from the economically distressed areas account or any  
6 other financial assistance.

7           (b) At the time an application for financial assistance is  
8 considered, the board also must find that the area to be served  
9 by a proposed project has a median household income that is not  
10 greater than 75 percent of the median state household income ~~[an~~  
11 ~~average per capita income that is at least 25 percent below the~~  
12 ~~state average]~~ for the most recent year ~~[three consecutive~~  
13 ~~years]~~ for which statistics are available.

14           SECTION 9. Subsection (b), Section 17.930, Water Code, is  
15 amended to read as follows:

16           (b) After making the considerations provided by Section  
17 17.929 ~~[of this code]~~, the board by resolution shall:

18                   (1) approve the plan and application as submitted;

19                   (2) approve the plan and application subject to the  
20 requirements identified by the board or commission for the  
21 applicant to obtain the managerial, financial, and technical  
22 capabilities to operate the system and any other requirements,  
23 including training under Subchapter M, the board considers  
24 appropriate;

25                   (3) deny the application and identify the  
26 requirements or remedial steps the applicant must complete  
27 before the applicant may be reconsidered for financial  
28 assistance;

29                   (4) if the board finds that the applicant will be  
30 unable to obtain the managerial, financial, or technical  
31 capabilities to build and operate a system, deny the application

1 and issue a determination that a service provider other than the  
2 applicant is necessary or appropriate to undertake the proposed  
3 project; or

4 (5) deny the application.

5 SECTION 10. Subsections (a) and (c), Section 17.933, Water  
6 Code, are amended to read as follows:

7 (a) The board may use money in the economically distressed  
8 areas account to provide financial assistance to a political  
9 subdivision ~~[to be repaid]~~ in the form of a loan, including a  
10 loan with zero interest, grant, or other type of financial  
11 assistance to be determined~~[, manner, and time provided]~~ by the  
12 board ~~[rules and in the agreement between the board and the~~  
13 ~~political subdivision]~~ taking into consideration the information  
14 provided by Section 17.927(b)(7) ~~[of this code]~~.

15 (c) The total amount of financial assistance provided by  
16 the board to political subdivisions under this subchapter from  
17 state-issued bonds for which repayment is not required may not  
18 exceed at any time 90 percent of the total principal amount of  
19 issued and unissued bonds authorized under Article III~~[, Section~~  
20 ~~49-d-7]~~ of the Texas Constitution, for purposes of this  
21 subchapter plus outstanding interest on those bonds.

22 SECTION 11. Section 17.952, Water Code, is amended to read  
23 as follows:

24 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.  
25 The board by resolution may provide for the issuance of water  
26 financial assistance bonds, which shall be general obligation  
27 bonds of the state, in an aggregate principal amount not to  
28 exceed the principal amount authorized to be issued by the  
29 ~~[Section 49-d-8, Article III,]~~ Texas Constitution.

30 SECTION 12. Subsection (a), Section 17.993, Water Code, is  
31 amended to read as follows:

1 (a) The commission or the board may evaluate whether an  
2 operating entity needs training if the operating entity:

3 (1) requests financial assistance or an amendment to  
4 the project plan or budget ~~[additional funding]~~;

5 (2) requests more time to meet its obligations under  
6 a repayment schedule;

7 (3) does not provide required documentation; or

8 (4) has a history of compliance problems, as  
9 determined by the commission.

10 SECTION 13. Subsection (a), Section 212.0105, Local  
11 Government Code, is amended to read as follows:

12 (a) This section applies only to a person who:

13 (1) is the owner of a tract of land in ~~[either:~~

14 ~~[-(A)- a county that is contiguous to an~~  
15 ~~international border; or~~

16 ~~[-(B)-]~~ a county in which a political subdivision  
17 that is eligible for and has applied for ~~[has received]~~  
18 financial assistance through Subchapter K, Chapter 17, Water  
19 Code;

20 (2) divides the tract in a manner that creates any  
21 lots that are intended for residential purposes and are five  
22 acres or less; and

23 (3) is required under this subchapter to have a plat  
24 prepared for the subdivision.

25 SECTION 14. Section 232.071, Local Government Code, is  
26 amended to read as follows:

27 Sec. 232.071. APPLICABILITY. This subchapter applies only  
28 to the subdivision of land located:

29 (1) outside the corporate limits of a municipality;  
30 and

31 (2) in a county:

1 (A) in which is located a political subdivision  
2 that is eligible for and has applied for financial assistance  
3 under Section 15.407, Water Code, or Subchapter K, Chapter 17,  
4 Water Code; and

5 (B) to which Subchapter B does not apply.

6 SECTION 15. Subsection (i), Section 15.407, Subsection  
7 (f), Section 16.343, Sections 17.923 through 17.926, and  
8 Subsection (g), Section 17.933, Water Code, are repealed.

9 SECTION 16. The changes in law made by this Act apply only  
10 to an application for financial assistance pending or filed on  
11 or after the effective date of this Act.

12 SECTION 17. This Act takes effect on September 1, 2005.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 19, 2005**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** **HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas.), **Committee Report 2nd House, Substituted**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would create the Economically Disadvantaged Areas program, making financial assistance from the program to areas with not more than 75 percent of the median state household income without respect to county. This would effectively expand the number of political subdivisions eligible for Economically Distressed Areas Program funding. Although the demand for Water Development Board funding would increase substantially, costs would depend on the funding source for the financial assistance and the amount of funds made available.

**Local Government Impact**

Impact to local governments that meet the definition of economically distressed area would benefit from financial assistance for water supply or sewer services. The positive fiscal impact would vary by local government entity and be dependent upon availability of funds.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, TL, DLBa

# **LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

## **FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 10, 2005**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB467** by Bailey (Relating to the financing of water and sewer programs and the provision of sewer connections in disadvantaged areas in certain counties.), **As Engrossed**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would amend Chapter 16, Water Code, to add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would amend Subchapter K, Chapter 17, Water Code, to require a municipality in an economically distressed area, upon request of an owner or occupant of land where a new residential structure is being constructed and that is adjacent to a street, to provide sewer service connections on both sides of the street

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

### **Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

The cost of providing sewer service connections on both sides of the street would vary by affected county.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 31, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** HB467 by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would add Harris County and Fort Bend County to the list of counties eligible to adopt the model rules and to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. Harris and Fort Bend counties would be authorized to limit applicability of the model rules to only the portion of the county for which the application is made.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services in the applicable areas. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 4, 2005**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** **HB467** by Bailey (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

**Local Government Impact**

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL, DLBa

**ENROLLED**

H.B. No. 467

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.407(a), Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.921 [~~16.341 of this code~~].

SECTION 2. Sections 16.341(1) and (2), Water Code, are amended to read as follows:

(1) "Affected county" means a county[+]

[~~(A)~~] that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income [~~a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; or~~

[~~(B) that is adjacent to an international border~~].

(2) "Economically distressed area" has the meaning assigned by Section 17.921 [~~means an area in which~~].

1                   ~~[(A) water supply or sewer services are~~  
2 ~~inadequate to meet minimal needs of residential users as defined by~~  
3 ~~board rules,~~

4                   ~~[(B) financial resources are inadequate to~~  
5 ~~provide water supply or sewer services that will satisfy those~~  
6 ~~needs, and]~~

7                   ~~[(C) an established residential subdivision was~~  
8 ~~located on June 1, 1989, as determined by the board].~~

9           SECTION 3.   Sections 16.343(b) and (c), Water Code, are  
10 amended to read as follows:

11           (b)   The model rules must:

12                   (1)   assure that adequate drinking water is available  
13 to the residential areas in accordance with Chapter 341, Health and  
14 Safety Code, and the Rules and Regulations for Public Water Systems  
15 and the Drinking Water Standards Governing Water Quality and  
16 Reporting Requirements for Public Water Supply Systems adopted by  
17 the commission ~~[Texas Board of Health]~~ and other law and rules  
18 applicable to drinking water; and

19                   (2)   provide criteria applicable to tracts that were  
20 divided into two or more parts to lay out a subdivision and were not  
21 platted or recorded before September 1, 2005 ~~[1989]~~.

22           (c)   The model rules must:

23                   (1)   assure that adequate sewer facilities are  
24 available to the residential areas through either septic tanks or  
25 an organized sewage disposal system that is a publicly or privately  
26 owned system for the collection, treatment, and disposal of sewage  
27 operated in accordance with the terms and conditions of a valid

1 waste discharge permit issued by the commission or private sewage  
2 facilities in accordance with Chapter 366, Health and Safety Code,  
3 and the Construction Standards for On-Site Sewerage Facilities  
4 adopted by the commission and other law and rules applicable to  
5 sewage facilities; and

6 (2) provide criteria applicable to tracts that were  
7 divided into two or more parts to lay out a subdivision and were not  
8 platted or recorded before September 1, 2005 [~~1989~~].

9 SECTION 4. Section 17.0112, Water Code, is amended to read  
10 as follows:

11 Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL  
12 ASSISTANCE. (a) The board may issue not more than \$25 million in  
13 bonds dedicated under Section 17.0111 of this code and may issue not  
14 more than \$50 million in bonds authorized under Article III, Texas  
15 Constitution, during a fiscal year to provide financial assistance  
16 for water supply and sewer services as provided under Subchapter K  
17 of this chapter.

18 (b) On request of the board, the bond review board by  
19 resolution may waive during any state fiscal year the limits  
20 [~~limit~~] provided by Subsection (a) [~~of this section~~] and authorize  
21 the board to issue an additional amount of bonds if the bond review  
22 board finds that the amount of bonds authorized for that state  
23 fiscal year has been exhausted or there is not a sufficient amount  
24 of bonds to meet needs of the program during the state fiscal year  
25 and that the public health and safety require immediate  
26 authorization of additional bonds. Before the bond review board  
27 adopts such a resolution, it shall give notice and hold a hearing to

determine whether the limits should be waived and the authorization given.

SECTION 5. Section 17.921, Water Code, is amended by amending Subdivision (1) and adding Subdivision (6) to read as follows:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005 [~~1989~~], as determined by the board.

(6) "Economically distressed areas account" means the economically distressed areas account in the Texas Water Development Fund or the economically distressed areas program account in the Texas Water Development Fund II.

SECTION 6. Section 17.922(b), Water Code, is amended to read as follows:

(b) To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance

1 under the economically distressed areas program. Any savings  
2 derived from the construction of a regional system that includes or  
3 serves an economically distressed area project shall be factored  
4 into the board's determination of financial assistance for the  
5 economically distressed area in a manner that assures the  
6 economically distressed area receives appropriate benefits from  
7 the savings. In no event shall financial assistance provided from  
8 the economically distressed areas account be used to provide water  
9 supply or wastewater service to any area that is not ~~[defined as]~~ an  
10 economically distressed area ~~[pursuant to Section 17.921(1)(A) of~~  
11 ~~this code]~~.

12 SECTION 7. Sections 17.927(b), (c), and (d), Water Code,  
13 are amended to read as follows:

14 (b) The application and plan must include:

15 (1) the name of the political subdivision and its  
16 principal officers ~~[comply with board requirements]~~;

17 (2) a citation of the law under which the political  
18 subdivision was created and operates ~~[describe in detail the method~~  
19 ~~for delivering water supply and sewer services and the persons to~~  
20 ~~whom the services will be provided]~~;

21 (3) a project plan, prepared and certified by an  
22 engineer registered to practice in this state, that must:

23 (A) describe the proposed planning, design, and  
24 construction activities necessary to provide water supply and sewer  
25 services that meet minimum state standards; and

26 (B) identify the households to which the water  
27 supply and sewer services will be provided ~~[describe the method for~~

1 ~~complying with minimum state standards for water supply and sewer~~  
2 ~~services adopted by the board under Section 16.342 of this code];~~

3 (4) ~~[include]~~ a budget that estimates the total cost  
4 of providing water supply and sewer services to the economically  
5 distressed area and a proposed schedule and method for repayment of  
6 financial assistance consistent with board rules and guidelines;

7 (5) a description of the ~~[describe]~~ existing water  
8 supply and sewer facilities located in the ~~[economically~~  
9 ~~distressed]~~ area to be served by the proposed project, including a  
10 statement ~~[and include with the description];~~

11 ~~[(A) the county map required by Section 366.036,~~  
12 ~~Health and Safety Code, or~~

13 ~~[(B) a document]~~ prepared and certified by an  
14 engineer registered to practice in this state that the facilities  
15 do not meet minimum state standards ~~[describing the plan for~~  
16 ~~providing water supply and sewer services to the economically~~  
17 ~~distressed area];~~

18 (6) documentation ~~[provide proof]~~ that the  
19 appropriate political subdivision has adopted the model rules  
20 developed under Section 16.343 ~~[of this code];~~

21 (7) ~~[include]~~ information identifying the median  
22 household income for the area to be served by the proposed project  
23 ~~[on the ability of potential customers to pay for the services~~  
24 ~~provided by the project including composite data prepared by the~~  
25 ~~applicant pursuant to board rules and guidelines from surveys of~~  
26 ~~those potential customers covering income, family size, personal~~  
27 ~~expenses, employment status, and other information required by~~



board rule]; and

(8) the total amount of assistance requested from the economically distressed areas account~~[include an estimate of the per household cost of providing the services contemplated by the project with supporting data,~~

~~[(9) describe the procedures to be used to collect money from residents who use the proposed water supply and sewer services including procedures for collection of delinquent accounts,~~

~~[(10) include a requirement that a contractor who agrees to acquire, construct, extend, or provide water supply and sewer services executes a performance bond in the amount of 100 percent of the contract price,~~

~~[(11) contain an agreement to comply with applicable procurement procedures in contract awards for water supply and sewer services,~~

~~[(12) if located in the service area of a retail public utility or public utility that has a certificate of public convenience and necessity under Chapter 13 of this code, include a document in the form of an affidavit signed by the chief executive officer of the utility, which shall cooperate with the political subdivision, stating that the utility does not object to the construction and operation of the services and facilities in its service area,~~

~~[(13) include a map of the economically distressed area together with supporting information relating to dwellings in the area,~~

1           ~~[(14) describe in detail the methods for incorporating~~  
2 ~~water conservation into the provision of water and sewer services~~  
3 ~~to the economically distressed area,~~

4           ~~[(15) include, on request of the board, a written~~  
5 ~~determination by the commission on the managerial, financial, and~~  
6 ~~technical capabilities of the applicant to operate the system for~~  
7 ~~which assistance is being requested; and~~

8           ~~[(16) include any other information required by the~~  
9 ~~board].~~

10           (c) Before the board approves the application or provides  
11 any funds under an application, it shall require an applicant to  
12 adopt a program of water conservation for the more effective use of  
13 water that meets the criteria established under Section 17.125 ~~[If~~  
14 ~~an applicant is a district or nonprofit water supply corporation,~~  
15 ~~the applicant must include with the application proof that the~~  
16 ~~appropriate county and municipalities have given their consent].~~

17           (d) Before considering an application, the board may  
18 require the applicant to:

19               (1) provide documentation to the executive  
20 administrator sufficient to allow review of the applicant's  
21 managerial, financial, and technical capabilities to operate the  
22 system for which assistance is being requested;

23               (2) provide a written determination by the commission  
24 on the applicant's managerial, financial, and technical  
25 capabilities to operate the system for which assistance is being  
26 requested;

27               (3) request that the comptroller perform a financial

1 management review of the applicant and, if the review is performed,  
2 provide the board with the results of the review; or

3 (4) provide any other information required by the  
4 board or the executive administrator ~~[In an application to the~~  
5 ~~board for financial assistance for a water supply project or for~~  
6 ~~sewer services, the applicant shall include:~~

7 ~~[(1) the name of the political subdivision and its~~  
8 ~~principal officers,~~

9 ~~[(2) a citation of the law under which the political~~  
10 ~~subdivision operates and was created,~~

11 ~~[(3) a description of the water supply project or the~~  
12 ~~sewer services for which the financial assistance will be used,~~

13 ~~[(4) the estimated total cost of the water supply~~  
14 ~~project or sewer services construction,~~

15 ~~[(5) the amount of state financial assistance~~  
16 ~~requested,~~

17 ~~[(6) the plan for repaying the financial assistance~~  
18 ~~provided for the water supply project or sewer services, and~~

19 ~~[(7) any other information the board requires].~~

20 SECTION 8. Section 17.929, Water Code, is amended to read as  
21 follows:

22 Sec. 17.929. CONSIDERATIONS IN PASSING ON  
23 APPLICATION. (a) In passing on an application for financial  
24 assistance, the board shall consider:

25 (1) the need of the economically distressed area to be  
26 served by the water supply and sewer services in relation to the  
27 need of other political subdivisions requiring financial

1 assistance under this subchapter and the relative costs and  
2 benefits of all applications;

3 (2) the availability to the area to be served by the  
4 project of revenue or financial assistance from alternative sources  
5 for the payment of the cost of the proposed project [~~efforts by the~~  
6 ~~residents of the economically distressed area to provide necessary~~  
7 ~~water supply and sewer services~~];

8 (3) [~~the proposed use of labor from inside the~~  
9 ~~political subdivision to perform contracts for providing water~~  
10 ~~supply and sewer services~~];

11 [~~(4) the relationship of the proposed water supply and~~  
12 ~~sewer services to minimum state standards for water supply and~~  
13 ~~sewer services adopted under Section 16.343 of this code~~];

14 [(4)] the financing of the proposed water supply and  
15 sewer project including consideration of:

16 (A) the budget and repayment schedule submitted  
17 under Section 17.927(b)(4) [~~of this code~~];

18 (B) other items included in the application  
19 relating to financing; and

20 (C) other financial information and data  
21 available to the board;

22 (4) [(6)] whether the applicant has proposed methods  
23 for incorporating water conservation into the provision of water  
24 and sewer services to the economically distressed area;

25 [(7)] whether the county and other appropriate  
26 political subdivisions have [~~has~~] adopted model rules pursuant to  
27 Section 16.343 [~~of this code~~] and the manner of enforcement of model

1 rules;

2 ~~[(8) the feasibility of creating a conservation and~~  
3 ~~reclamation district under Article XVI, Section 59, of the Texas~~  
4 ~~Constitution, to provide the services and finance the water supply~~  
5 ~~and sewer services covered by the application with district bonds~~  
6 ~~issued and sold through the regular bond market;~~

7 ~~[(9) the percentage of the total project cost that the~~  
8 ~~financial assistance will comprise,] and~~

9 (5) ~~[(10)]~~ the feasibility of achieving cost savings  
10 by providing a regional facility for water supply or wastewater  
11 service and the feasibility of financing the facility by using  
12 funds from the economically distressed areas account or any other  
13 financial assistance.

14 (b) At the time an application for financial assistance is  
15 considered, the board also must find that the area to be served by a  
16 proposed project has a median household income that is not greater  
17 than 75 percent of the median state household income ~~[an average per~~  
18 ~~capita income that is at least 25 percent below the state average]~~  
19 for the most recent year ~~[three consecutive years]~~ for which  
20 statistics are available.

21 SECTION 9. Section 17.930(b), Water Code, is amended to  
22 read as follows:

23 (b) After making the considerations provided by Section  
24 17.929 ~~[of this code]~~, the board by resolution shall:

- 25 (1) approve the plan and application as submitted;
- 26 (2) approve the plan and application subject to the
- 27 requirements identified by the board or commission for the

1 applicant to obtain the managerial, financial, and technical  
2 capabilities to operate the system and any other requirements,  
3 including training under Subchapter M, the board considers  
4 appropriate;

5 (3) deny the application and identify the requirements  
6 or remedial steps the applicant must complete before the applicant  
7 may be reconsidered for financial assistance;

8 (4) if the board finds that the applicant will be  
9 unable to obtain the managerial, financial, or technical  
10 capabilities to build and operate a system, deny the application  
11 and issue a determination that a service provider other than the  
12 applicant is necessary or appropriate to undertake the proposed  
13 project; or

14 (5) deny the application.

15 SECTION 10. Sections 17.933(a) and (c), Water Code, are  
16 amended to read as follows:

17 (a) The board may use money in the economically distressed  
18 areas account to provide financial assistance to a political  
19 subdivision [~~to be repaid~~] in the form of a loan, including a loan  
20 with zero interest, grant, or other type of financial assistance to  
21 be determined [~~, manner, and time provided~~] by the board [~~rules and~~  
22 ~~in the agreement between the board and the political subdivision~~]  
23 taking into consideration the information provided by Section  
24 17.927(b)(7) [~~of this code~~].

25 (c) The total amount of financial assistance provided by the  
26 board to political subdivisions under this subchapter from  
27 state-issued bonds for which repayment is not required may not

1 exceed at any time 90 percent of the total principal amount of  
2 issued and unissued bonds authorized under Article III[~~Section~~  
3 ~~49-d-7~~] of the Texas Constitution, for purposes of this subchapter  
4 plus outstanding interest on those bonds.

5 SECTION 11. Section 17.952, Water Code, is amended to read  
6 as follows:

7 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE  
8 BONDS. The board by resolution may provide for the issuance of  
9 water financial assistance bonds, which shall be general obligation  
10 bonds of the state, in an aggregate principal amount not to exceed  
11 the principal amount authorized to be issued by the [~~Section~~  
12 ~~49-d-8, Article III,~~] Texas Constitution.

13 SECTION 12. Section 17.993(a), Water Code, is amended to  
14 read as follows:

15 (a) The commission or the board may evaluate whether an  
16 operating entity needs training if the operating entity:

17 (1) requests financial assistance or an amendment to  
18 the project plan or budget [~~additional funding~~];

19 (2) requests more time to meet its obligations under a  
20 repayment schedule;

21 (3) does not provide required documentation; or

22 (4) has a history of compliance problems, as  
23 determined by the commission.

24 SECTION 13. Section 212.0105(a), Local Government Code, is  
25 amended to read as follows:

26 (a) This section applies only to a person who:

27 (1) is the owner of a tract of land in [~~either~~]

1                   ~~[(A) a county that is contiguous to an~~  
2 ~~international border, or~~

3                   ~~[(B)]~~ a county in which a political subdivision  
4 that is eligible for and has applied for ~~[has received]~~ financial  
5 assistance through Subchapter K, Chapter 17, Water Code;

6                   (2) divides the tract in a manner that creates any lots  
7 that are intended for residential purposes and are five acres or  
8 less; and

9                   (3) is required under this subchapter to have a plat  
10 prepared for the subdivision.

11                  SECTION 14. Section 232.071, Local Government Code, is  
12 amended to read as follows:

13                  Sec. 232.071. APPLICABILITY. This subchapter applies only  
14 to the subdivision of land located:

15                   (1) outside the corporate limits of a municipality;  
16 and

17                   (2) in a county:

18                   (A) in which is located a political subdivision  
19 that is eligible for and has applied for financial assistance under  
20 Section 15.407, Water Code, or Subchapter K, Chapter 17, Water  
21 Code; and

22                   (B) to which Subchapter B does not apply.

23                  SECTION 15. Section 15.407(i), Section 16.343(f), Sections  
24 17.923 through 17.926, and Section 17.933(g), Water Code, are  
25 repealed.

26                  SECTION 16. The changes in law made by this Act apply only  
27 to an application for financial assistance pending or filed on or



H.B. No. 467

1 after the effective date of this Act.

2 SECTION 17. This Act takes effect on September 1, 2005.

H.B. No. 467

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President of the Senate

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Speaker of the House

I certify that H.B. No. 467 was passed by the House on April 20, 2005, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 467 on May 27, 2005, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 467 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 30, Nays 1.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 467 was passed by the House on

April 20

(1)

, 2005, by the following vote:

Yeas 143, Nays 0, 1 present, not voting

(3)

(4)

and that the House concurred in Senate amendments to H.B. No. 467

on May 27, 2005, by the following vote:

(5)

Yeas 139, Nays 0, 2 present, not voting

(6)

(7)

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: CT31

I certify that H.B. No. 467 was passed by the Senate, with

(1)

amendments, on May 25, 2005, by the

(2)

following vote: Yeas 30, Nays 1

(3)

(4)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: CT32

for chief clerk use only

Bill or Resolution Number:

HB 467

## JOINT AUTHOR AUTHORIZATION

As primary author of HB 467 I hereby authorize the following joint author(s):  
(bill or resolution #)

Charlie Howard  
printed name of joint author #1

Charlie Howard  
signature of joint author #1

MAR 08 2005

DORA OLIV  
printed name of joint author #2

[Signature]  
signature of joint author #2

3/8/05

\_\_\_\_\_  
printed name of joint author #3

\_\_\_\_\_  
signature of joint author #3

\_\_\_\_\_  
printed name of joint author #4

\_\_\_\_\_  
signature of joint author #4

Ken Bailey  
signature of primary author

MAR 08 2005  
date

H.B. No. 467

By Kevin Bailey

A BILL TO BE ENTITLED  
AN ACT

relating to the financing of water and sewer programs in disadvantaged areas in certain counties.

JAN 14 2005 Filed with the Chief Clerk  
FEB 07 2005 Read first time and referred to Committee on Environmental Regulation  
MAR 29 2005 Reported favorably (~~unfavorably~~)  
(as substituted)  
APR 01 2005 Sent to Committee on (Calendars)  
(~~Local & Consent Calendars~~)  
APR 19 2005 Read second time (comm. subst.) (amended); passed to third reading (~~failed~~) by a (non-record vote)  
(~~record vote of~~ yeas, nays, present, not voting)  
Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of yeas, nays, present, not voting  
APR 20 2005 Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (~~non-record vote~~)  
(record vote of 143 yeas, 2 nays, 1 present, not voting)  
Engrossed  
APR 21 2005 Sent to Senate

Robert Haney  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 21 2005 Received from the House  
APR 22 2005 Read and referred to Committee on NATURAL RESOURCES  
Reported favorably  
MAY 17 2005 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time  
Ordered not printed  
Laid before the Senate  
MAY 25 2005 Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(yeas, nays)  
MAY 25 2005 Read second time, Amended, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(yeas, nays)  
MAY 25 2005 Senate and Constitutional 3 Day Rules suspended by a vote of 30 yeas, 1 nays  
MAY 25 2005 Read third time, Amended, and passed by a (viva voce vote)  
(30 yeas, 1 nays)

May 26, 2005 Returned to the House

Larry Spaw  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 26 2005

Returned from the Senate (as substituted)  
(with amendments)

MAY 27 2005

House concurred in Senate amendments by a (non-record vote)  
(record vote of 139 yeas, 0 nays, 2 present, not voting)

House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

05 APR -1 AM 12:31 05 MAY 26 PM 8:21  
HOUSE OF REPRESENTATIVES HOUSE OF REPRESENTATIVES